
HUMAN RIGHTS SITUATION IN HONG KONG:

HONG KONG WATCH BRIEFING ON EVENTS: MARCH 2024

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POLITICAL PRISONERS: ARRESTS, CHARGES & TRIALS

Andy Li, who faced alleged torture, testifies against Jimmy Lai

When Andy Li took the stand to testify in the case of British citizen Jimmy Lai on 13 March, there was public outcry following claims that evidence from Mr Li had been obtained through torture while in a Shenzhen prison from 2020 to 2021, including allegedly being subject to restraint chairs (tiger chairs) to force confessions.¹ On 31 January, the United Nations Special Rapporteur on torture Dr Alice Jill Edwards wrote to the Government of the People’s Republic of China to address these claims, stating, “I am deeply concerned that evidence that is expected to be presented against Jimmy Lai imminently, may have been obtained as a result of torture or other unlawful treatment. An investigation into these allegations must be conducted immediately, before any evidence is admitted into these present proceedings.”²

During his testimony, Andy Li discussed his involvement in the creation of a global advertising campaign, alongside Chan Tsz-wah, to bring “eye-catching protest scenes” from Hong Kong to the attention of the international stage during the G20 summit in Japan in 2019. The court heard that two companies linked to Jimmy Lai supported the global advertising campaign during the unrest of 2019. Andy Li also discussed his involvement, together with “Fight For Freedom. Stand With Hong Kong” (SWHK), in the “G-Fight for Freedom Crowdfunding” campaign to raise international awareness of the 2019 pro-democracy protests in Hong Kong.

Following three rounds of crowdfunding campaigns, Andy Li testified about his transition to international lobbying. This included arranging a visit for an international election observation mission consisting of Parliamentarians and experts from around the world, led by Hong Kong Watch Patron Lord Alton of Liverpool, in 2019 to monitor that year’s District Council elections in Hong Kong. Mr Li also spoke about his lobbying trip to the US in December 2019 and his lobbying efforts in Japan, identifying himself as “one of the Hong Kongers [who was] doing international lobbying on the international stage.” A meeting between Mr Li and United Nations Human Rights Council staff was presented as evidence of “collusion with foreign forces”.

¹ <https://ipac.global/ipac-pressrelease-andyli/>

² <https://www.ohchr.org/en/press-releases/2024/01/hong-kong-sar-un-expert-warns-against-admission-evidence-allegedly-secured>

Andy Li is a pro-democracy activist who was one of 12 Hong Kongers who tried to flee to Taiwan by speedboat after the imposition of the National Security Law in August 2020, but was intercepted by the authorities and taken to Mainland China. Following trials in Mainland China, Mr Li was convicted under the National Security Law and returned to Hong Kong. Mr Li is expected to receive his sentence following the conclusion of Mr Lai's trial.

Ma Chun-man becomes first Hong Konger to have Article 23 retroactively applied to his sentence

Just three days after the enactment of the Safeguarding National Security Bill,³ which is implemented under Article 23 of the Basic Law and referred to as 'Article 23', Ma Chun-man likely became the first Hong Konger to have the newly passed law retroactively applied to his sentence.⁴

Article 23 targets five types of activities which the Hong Kong officials intend to declare as 'offences', and contains vaguely-worded provisions which threaten both to criminalise the peaceful exercise of human rights and dramatically undermine due process and fair trial rights in Hong Kong. Article 23 will bring further devastating consequences for human rights and freedoms in Hong Kong, beyond the impact of the National Security Law imposed by Beijing in 2020.

Mr Ma was convicted in 2021 of "incitement of secession" under the National Security Law imposed on Hong Kong by Beijing in 2020. Mr Ma was expected to be released 48 hours after the additional new domestic national security law legislated by the Hong Kong government went into effect. However, speaking about Mr Ma's case, Hong Kong Chief Executive John Lee said, "It's been made very clear that if a prisoner is serving a sentence in respect to his conviction of an offence endangering national security, the prisoner is not entitled to remission." The loss of the previous one-third remission for the good behaviour of prisoners under Article 23 means that Mr Ma will spend at least 20 more months behind bars.

This case also implies, and John Lee confirmed, that the Hong Kong authorities intend to apply Article 23 retroactively. The retroactive application of Article 23 will place existing political prisoners and others in Hong Kong who have peacefully exercised their rights and freedoms at heightened risk.

³ <https://www.legco.gov.hk/yr2024/english/bills/b202403081.pdf>

⁴ <https://www.barrons.com/news/hong-kong-scraps-early-release-for-national-security-convicts-dab2db85>

Civic Party of Hong Kong dissolves following enactment of Article 23

Four days after the enactment of Article 23 in Hong Kong, the Civic Party of Hong Kong officially dissolved. In May 2023, the Civic Party disbanded under a leadership vacuum, and spent the remainder of the year clearing out its office.

Following the imposition of the National Security Law in Hong Kong in 2020, the Civic Party had elected politicians unseated, three members jailed, and a former politician listed as a wanted fugitive. By the end of 2021, all Civic Party members had been ousted under Beijing's new "patriots-only" laws which disqualifies anyone deemed politically disloyal from contesting elections or holding public office in Hong Kong.⁵

The Civic Party is a pro-democracy political party in Hong Kong that was founded in 2006 as a Basic Law Article 45 Concern Group to promote democracy in Hong Kong.

Hong Kong court upholds conviction over Tiananmen vigil organisers' national security data request

A Hong Kong court upheld the convictions of Chow Hang-tung, Tsui Hon-kwong and Tang Ngok-kwan over their refusal to respond to a national security police data request regarding the personal information of staff and standing committee members of the now disbanded Hong Kong Alliance in Support of Patriotic Democratic Movements of China. The three activists were jailed for these convictions for four and a half months in March 2023.

During the appeal hearing in December 2023, the activists argued that their organisation was not a foreign agent and therefore did not need to comply with the data request. However, High Court Judge Anna Lai agreed with the lower court ruling that the prosecution "need not prove the person or organisation is as a fact a foreign agent." Her judgement stated, "One cannot lose sight of the basic fact that the offence is one of failing to comply with the Notice as required."

After receiving sentences in March 2023, the activists were granted bail pending appeal if they agreed not to make speeches or conduct interviews that may endanger national security. Chow rejected bail on these terms "on grounds of freedom of expression."⁶

⁵<https://www.rfi.fr/en/international-news/20231228-jailed-unseated-exiled-hong-kong-opposition-party-shuts-its-doors>

⁶<https://hongkongfp.com/2024/03/14/breaking-hong-kong-court-upholds-tiananmen-vigil-organisers-conviction-over-national-security-data-request/>

Hong Kong Court of Appeal upholds 40-month sentence for Tam Tak-chi

The Hong Kong Court of Appeal upheld a 40-month sentence for Tam Tak-chi, the first pro-democracy activist tried under Hong Kong's sedition law since the handover of Hong Kong in 1997. The Court ruled that chanting anti-government slogans or criticising laws are sufficient grounds to jail an individual for sedition.⁷

Mr Tak-Chi was found guilty at the District Court for 11 charges in 2022, including “uttering seditious words”, “incitement to knowingly take part in an unauthorised assembly”, and “refusing to obey an order given by an authorised officer.” This included chanting the protest slogan ‘Liberate Hong Kong, revolution of our times’ and criticising the National Security Law. He was acquitted of two charges for “disorderly conduct in a public place,” and one count of “conspiracy to utter seditious words.”⁸

The ruling is expected to serve as a roadmap for the handling of other sedition cases, including in the looming verdict of *Stand News* former editor-in-chief Chung Pui-kuen and former acting editor-in-chief Patrick Lam.

‘Grandpa Chan’ charged for displaying protest banners in Hong Kong park

Chan Ki-kau, informally known as ‘Grandpa Chan’, appeared at the Kowloon City Magistrates’ Courts following his arrest and bail four months ago for displaying protest banners on the iconic Lion Rock peak in Hong Kong. He was accused of violating Country Parks and Special Areas Regulations, which prohibit visitors from displaying banners, signs, posters, notices and advertisements unless granted permission. Offenders face up to three years’ imprisonment and a HK\$2,000 fine. Grandpa Chan was granted bail and is expected to return to court on 26 April 2024.⁹

THE STATE OF THE RULE OF LAW AND POLICING

United Nations Special Rapporteurs publish letter expressing concerns about the enactment of Article 23

Six United Nations Special Rapporteurs published a letter to the Permanent Mission of the People’s Republic of China to the United Nations, expressing their concerns that Hong

⁷ <https://apnews.com/article/hong-kong-sedition-activist-tam-tak-chi-appeal-ab0783f33ba06218e1138b4853cf222b>

⁸ <https://www.hongkongwatch.org/political-prisoners>

⁹ <https://hongkongfp.com/2024/02/29/hong-kong-democracy-activist-grandpa-chan-charged-with-breaching-country-park-rules-over-banners-atop-lion-rock/>

Kong's new Safeguarding National Security Ordinance, known as 'Article 23', violates human rights.¹⁰

The 18-page letter comments on Article 23's "numerous measures that would significantly and unduly limit the exercise of human rights and fundamental freedoms and would be incompatible with the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)." The letter also details how Article 23 will violate freedoms of opinion and expression, peaceful assembly and association, freedom from arbitrary detention, the right to a fair trial, freedom of movement, the right to privacy, the right to take part in the conduct of participation in public affairs, and the right to academic freedom.

The wide range of Special Rapporteurs who signed this letter conveys the extent of the rights and freedoms that will be violated by the new legislation. The signatories include: Irene Khan, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Farida Shaheed, Special Rapporteur on the right to education; Clement Nyaletsossi Voule, Special Rapporteur on the rights to freedom of peaceful assembly and of association; Mary Lawlor, Special Rapporteur on the situation of human rights defenders; Margaret Satterthwaite, Special Rapporteur on the independence of judges and lawyers; and Ben Saul, Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.¹¹

89 international parliamentarians and parliaments condemn the passage of Article 23

On 19 March, the day that the Hong Kong Legislative Council passed Article 23, a cross-party international coalition of 89 parliamentarians and public figures issued a statement condemning the passage of the new national security legislation.

The signatories include the last British Governor of Hong Kong Lord Patten of Barnes, former British Foreign Secretary Sir Malcolm Rifkind, former Polish Foreign Minister Anna Fotyga MEP, former Minister of Justice and Attorney-General of Canada Irwin Cotler, the Director of the International Bar Association's Human Rights Institute Baroness Helena Kennedy, KC, United States Senator Marco Rubio and the Chair of the US Congressional-Executive Commission on China Representative Chris Smith, as well as other signatories from the United Kingdom, the United States, Canada, across the European Union, South Korea and Malaysia.

¹⁰ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28893>

¹¹ <https://www.hongkongwatch.org/all-posts/2024/3/28/hong-kong-watch-welcomes-un-special-rapporteurs-letter-expressing-concerns-about-the-enactment-of-article-23>

The coalition calls for supportive governments to unite against this “flagrant breach of the Basic Law of Hong Kong, the Sino-British Joint Declaration, and international human rights law.” In the statement, Hong Kong Watch urges governments to introduce and improve lifeboat policies to support Hong Kongers, to hold targeted officials accountable through the imposition of sanctions, and to review Hong Kong’s special status in international fora including Hong Kong Economic and Trade Offices.¹²

The same day, Hong Kong Watch responded to the passage of Article 23 in the European Parliament in Brussels. Hong Kong Watch Research and Policy Advisor Megan Khoo spoke on a panel alongside Zhou Fengsuo, President of Humanitarian China and former student leader during the 1989 Tiananmen Square protests, Sarah Brooks, China Director of Amnesty International, Iverson Ng, Junior Research Fellow at Eur-Asian BorderLab and Simon Cheng, founder of Hong Kongers in Britain. The panel was moderated by Member of the European Parliament (MEP) Thijs Reuten, MEP Anna Fotyga and MEP Isabel Santos.

Mrs Khoo urged MEPs to work with their respective EU member states and EU Institutions seriously and swiftly to consider introducing lifeboat schemes for Hong Kongers to enable them to flee from heightened repression, implement targeted sanctions on Hong Kong Chief Executive John Lee, enact mechanisms to combat transnational repression, and review Hong Kong’s special status in international fora including the status of the Hong Kong Economic and Trade Offices in the EU.¹³

The UK Parliament also responded to the passage of Article 23 in the House of Commons¹⁴ followed by the House of Lords¹⁵ through Urgent Questions. In the House of Commons, Sir Iain Duncan Smith urged the UK Government to sanction Hong Kong officials responsible for the development and enactment of Article 23. Hong Kong Watch Patron Lord David Alton also pressed for sanctions, and highlighted the ongoing trial of British citizen Jimmy Lai and transnational repression against Hong Kongers in the UK. Chair of the All-Party Parliamentary Group on Hong Kong and Hong Kong Watch Patron Alistair Carmichael MP called for a review of the British National (Overseas) (BNO) visa scheme to help past and present political prisoners in Hong Kong. Given the number of UK dual nationals in Hong Kong, Hong Kong Watch Patron Sarah Champion MP asked what plans the UK Government has to protect British citizens from political persecution from China in Hong Kong and in the UK who might be threatened under the new security law, and whether the UK Government would further expand the BNO scheme to children born before 1997.

¹²<https://www.hongkongwatch.org/all-posts/2024/3/19/75-international-parliamentarians-and-public-figures-condemn-the-passage-of-article-23-legislation>

¹³<https://www.hongkongwatch.org/all-posts/2024/3/20/hong-kong-watch-responds-to-passage-of-article-23-in-european-parliament>

¹⁴https://twitter.com/hk_watch/status/1770479993954447403

¹⁵https://twitter.com/hk_watch/status/1770837575458054306

Sixteen international experts express “profound and grave concerns” about looming threat to religious freedom and Sacrament of Penance in Hong Kong

Sixteen international experts in freedom of religion or belief expressed “profound and grave concerns” about the implications of Article 23, which directly threatens religious freedom, and in particular the confidentiality of the Sacrament of Penance (otherwise known as the Sacrament of Reconciliation or “Confession”) in the Catholic Church.

Signatories include the former Chair of the US Commission on International Religious Freedom Nadine Maenza, the Director of the Hudson Institute’s Center for Religious Freedom Nina Shea, and the Ethics and Public Policy Center’s Senior Fellow George Weigel, as well as several academics and non-governmental organisations.¹⁶

Hong Kong’s Secretary for Justice Paul Lam Ting-kwok said that, under the new security law, a person could be punished with up to 14 years in prison for knowing that another person has committed “treason” but not telling the authorities within a reasonable time. Therefore, the new law could force a priest to reveal what has been said in Confession, against his will and conscience and in total violation of the privacy of the individual confession. The signatories call on this clear violation of Article 18 of the Universal Declaration of Human Rights to be condemned by people of conscience of all faiths and none throughout the world.

STATE SECURITY AND ECONOMY

UK Government sanctions Chinese officials in wake of Chinese cyberattacks on UK Electoral Commission

The UK Government announced sanctions on two Chinese officials and one company, in a coordinated effort with the United States Government to impose reprisals on China for a cyberattack against the UK Electoral Commission between August 2021 and October 2022.

The UK Government said that the officials and company in question work for the China state-affiliated cyber espionage group Advanced Persistent Threat Group 31 (APT31), which is alleged to be the main actor behind the major cyberattack on the UK Government. The Electoral Commission said “hostile actors” had gained access to copies of the electoral registers and broken into its emails and “control systems”, but added that it neither had impact on any elections nor anyone’s registration status.¹⁷

¹⁶<https://www.hongkongwatch.org/all-posts/2024/3/13/sixteen-international-experts-express-concerns-over-looming-threat-to-religious-freedom-in-hong-kong>

¹⁷<https://www.bbc.co.uk/news/uk-politics-68654533>

Hong Kong Watch welcomes the introduction of new sanctions in response to acts of blatant aggression against the UK by the People’s Republic of China. However, Hong Kong Watch notes that the new sanctions are very limited in scope, targeting only relatively minor officials, and that the UK Government has still yet to introduce any sanctions against Hong Kong officials for their ongoing human rights violations. The United States Government has sanctioned over 40 Hong Kong officials¹⁸ despite having no formal obligation to the territory, as the UK has under the Sino-British Joint Declaration.

On 30 May 2023, Hong Kong Watch made a formal sanctions submission to the Foreign, Commonwealth and Development Office (FCDO), outlining the case for Chief Executive of the Hong Kong Special Autonomous Region (HKSAR) John Lee to be sanctioned under the Global Human Rights Sanctions Regime. Hong Kong Watch continues to call for the UK Government to sanction John Lee for his continued blatant violations of international human rights law, both in Hong Kong and abroad.

University College London bans lecturer from China course to protect its “commercial interests”

University College London (UCL) banned associate professor Michelle Shipworth from teaching a “provocative course on China” after she presented and asked students to assess data claiming that China has the second-highest prevalence of modern-day slavery worldwide. After being informed that another lecturer would take over her course, Ms Shipworth was also instructed to “not use teaching case studies or examples that only focus on one country” and to not post “educational issues about only one country” on social media.

UCL hosts the largest number of Chinese students in Britain, who pay up to £40,000 a year in university fees, an estimated two to three times the home fees for British students. However, no matter the number of or amount of funding from Chinese students, the act of preventing Ms Shipworth from presenting and posting legitimate material to foster critical thinking violates the freedom of speech and academic freedom.¹⁹

In universities and in other arenas abroad, the Government of the People’s Republic of China and Hong Kong Government continue to work together to ensure the financial dependence of countries and entities to prevent light from being shed on China’s concerning human rights agenda, as well as to generate self-censorship among individuals, including those in the Hong Kong diaspora. As detailed in Hong Kong Watch’s recent submission to the UK Parliament Joint Committee on the National Security Strategy, the UK Government should increase the

¹⁸<https://www.theguardian.com/technology/2024/mar/25/cyber-attacks-china-uk#:~:text=%E2%80%9CThe%20United%20States%20sanctioned%20over%20MPs%20targeted%20by%20Beijing.>

¹⁹<https://www.telegraph.co.uk/news/2024/03/08/ucl-bans-lecturer-china-course-save-commercial-interests/#:~:text=UCL%20bans%20lecturer%20from%20China%20course%20to%20protect%20its%20'commercial%20interests'&text=A%20headline%20UK%20university%20has%20interests%2C%20The%20Telegraph%20can%20disclose.>

resilience of its democracy and counter transnational repression by including additional provisions in the “state threats aggravating factor” to cover criminal actions aimed at individuals identified by a foreign power as a dissident or otherwise enemy of the state, and coordinating with INTERPOL to block the Chinese and Hong Kong Governments from accessing the sensitive data of the Hong Kongers with arrest warrants.²⁰

OTHER DEVELOPMENTS

Hong Kong Watch launches new report on home fee status for BNO students in UK Parliament

Hong Kong Watch launched a new report on home fee status for students on the BNO visa scheme in the UK Parliament, at an event hosted by Hong Kong Watch Patron Lord Alton of Liverpool. Hong Kong Watch’s co-founder and Chief Executive Officer Benedict Rogers was joined on a panel by Hong Kong Watch Research and Policy Advisor Thomas Benson, Rex Lee of Hongkongers United, Chloe Cheung of the Committee for Freedom in Hong Kong Foundation, and BNO visa holders Amy Wong and Isaac Chan.²¹

Isaac, a 17-year-old BNO, spoke about how the lack of home fees status affected his plans to become a medical student and contribute to the UK, the country he now calls home. International fees for a medical degree can be upwards of £45,000 a year for five years. Amy, a BNO from the midlands, spoke movingly about how high international fees for medical degrees had affected her daughter, an excellent student with 97th percentile grades on the UCAT admissions test. In powerful testimony she talked honestly about the feelings of shame experienced by parents who cannot afford, despite their best efforts, to support their children in achieving their academic and career dreams.

Hong Kong Watch previously successfully campaigned for a change to the law on home fee status for Hong Kongers in Scotland in 2023. As a result of campaign work by Hong Kong Watch and others, and a policy change following a landmark legal ruling (*Ola Jasim v Scottish Ministers*), the Scottish government announced that free tuition support would be extended to migrant and refugee students living in Scotland who have been in the UK for three years, and have been granted leave to remain. Hong Kong Watch is now calling on the UK government to follow the lead of the Scottish government and grant home fees status for BNO visa holders who have been in the UK for three years and have leave to remain.

²⁰<https://www.hongkongwatch.org/all-posts/2024/3/28/hong-kong-watch-makes-submission-to-the-joint-committee-on-the-national-security-strategy>

²¹<https://www.hongkongwatch.org/all-posts/2024/3/18/hong-kong-watch-launches-new-report-on-home-fee-status-for-bno-students-in-uk-parliament>

Melissa Lantsman MP and Tom Kmiec MP call on Canadian Immigration Minister to ensure priority processing remains in place for Hong Kongers

In Canada, Melissa Lantsman MP, Deputy Leader of the Official Opposition, and Tom Kmiec MP, Shadow Minister for Immigration, Refugees and Citizenship, wrote to the Minister of Immigration, Refugees and Citizenship, Marc Miller, to inquire whether priority processing remains in place for Hong Kongers coming to Canada under the Hong Kong Pathway.²²

They noted the delay in processing experienced by more than 100 applicants whose permanent residency applications are primarily being handled by the Niagara Falls Immigration, Refugees and Citizenship (IRCC) office. They also raised their concerns about the effects of this delay as the human rights situation in Hong Kong continues to deteriorate and Hong Kongers look for a safe way to exit the city by immigrating to Canada.

In the letter, Ms Lantsman and Mr Kmiec wrote, “Special Immigration measures for Hong Kongers have been prioritized in processing by IRCC. We would like to clarify whether priority processing is still in place as the situation in Hong Kong continues to deteriorate. The situation for Hong Kongers continues to be delicate as many pro-democracy activists are anxious to find ways to escape and find refuge abroad. Priority processing is critical to ensure those who choose Canada get responses quickly.”²³

EU Parliament and Council reach provisional agreement to ban products made with forced labour

The European Parliament and Council reached a provisional agreement on the European Commission’s proposal for a regulation on ‘Prohibiting products made with forced labour on the Union market’.²⁴ The proposal relates to the EU’s fundamental freedoms and export and import controls, as well as the human rights situation and democracy worldwide.

The regulation would establish a framework to enforce a ban on the import and export of products made with forced labour, including through investigations, new information technology (IT) solutions, and cooperation with other countries and authorities. According to the agreement, the national authorities of EU member states or, if the instance occurs outside of EU territory, the EU Commission, will investigate whether companies’ supply chains use forced labour. In cases where forced labour is used, authorities will be able to demand the withdrawal of products from the EU market and confiscate them at the borders. Businesses which do not comply will face a fine.

²²<https://www.hongkongwatch.org/all-posts/2024/3/15/melissa-lantsman-mp-and-tom-kmiec-mp-call-on-immigration-minister-to-ensure-priority-processing-remains-in-place-for-hong-kongers>

²³<https://www.facebook.com/TomKmiec/posts/992650432223076>

²⁴<https://www.europarl.europa.eu/news/nl/press-room/20240301IPR18592/deal-on-eu-ban-on-products-made-with-forced-labour>

The provisional agreement must now be formally approved by the European Parliament and Council to be implemented across all EU member states. EU member states will thereafter have three years to begin applying the rules.

The European Council initially adopted its position²⁵ on the proposal on 26 January 2024, one week after Hong Kong Watch published a briefing²⁶ which exposes how Huawei and BYD are connected to Hong Kong, where the rule of law is rapidly deteriorating, as well as Xinjiang, where the EU recognises evidence of forced labour and the United Nations has reported possible crimes against humanity.²⁷ In the briefing, Hong Kong Watch calls on the European Parliament and Council to adopt the European Commission's proposal for a regulation on forced labour, which should effectively ban Huawei and BYD products and factories from entering the EU market due to their connection to forced labour in Xinjiang.

²⁵<https://www.hongkongwatch.org/all-posts/2024/1/26/european-council-adopts-position-to-ban-products-made-with-forced-labour-from-eu-markets>

²⁶<https://www.hongkongwatch.org/s/Huawei-and-BYD-Meet-Hong-Kong--Economic-Ethical-and-Security-Risks-to-the-EU-3.pdf>

²⁷https://www.eeas.europa.eu/eeas/china-statement-high-representativevice-president-josep-borrell-assessment-human-rights-concerns_en