



**THE SIX-MONTHLY REPORT ON HONG KONG  
1 JANUARY TO 30 JUNE 2021**

Deposited in Parliament by the  
Secretary of State for Foreign, Commonwealth and Development Affairs

**14 DECEMBER 2021**

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## FOREWORD

This is the 49th in a series of regular reports to Parliament on the implementation of the 1984 Sino–British Joint Declaration on the Question of Hong Kong. Although the substance of this Six-monthly Report covers the period from 1 January to 30 June 2021, this Foreword also addresses subsequent events.

Just over a year since the introduction of the National Security Law, the mainland Chinese and Hong Kong authorities have used the law and related institutions against all opposition, free press and civil society in Hong Kong. This curtailing of space for the free expression of alternative views continues to weaken checks and balances on executive power.

Many members of the pro-democracy political opposition are now in pre-trial detention facing charges under the National Security Law. Yet more have been silenced through prosecutions that we assess to be politically motivated. The radical electoral changes imposed on Hong Kong by Beijing in March 2021, in breach of China’s legal obligations under the Joint Declaration, mean that parties not closely aligned with the mainland or that are not pro-establishment will be excluded almost entirely from the legislature.

The authorities are using the National Security Law to target pro-democracy news outlets and journalists. The founder of leading newspaper Apple Daily and a number of its editorial team are in pre-trial detention, facing charges under the National Security Law. Media interviews have been used as evidence against defendants in National Security Law trials, and television and radio programmes expressing dissenting opinions have been taken off air.

We have also seen civil society come under attack, with arrests of members of student groups under the National Security Law. Pressure from pro-Beijing media on trade unions and other civil society groups has led many to disband, while individuals have felt pressure to self-censor.

The UK took three clear steps in response to the National Security Law. These included the introduction of a bespoke immigration path for British Nationals (Overseas), the suspension of our extradition treaty with Hong Kong, and the extension of our arms embargo on mainland China to cover Hong Kong.

I am proud that the UK Government made the historic decision to open a new visa route for Hong Kongers with British Nationals (Overseas) status and their eligible family members, and to commit £43 million of government funding to help them to settle successfully into life in the UK. By the end of September, 88,000 people had applied for visas under this scheme. On behalf of the government, I welcome them warmly to the UK.

We continue to make clear to the mainland Chinese and Hong Kong authorities our strong opposition to the National Security Law, and have put on record the reasons

for our subsequent policy actions. It is regrettable that the mainland Chinese and Hong Kong authorities factually misrepresent the reasons behind our policy and describe it as “foreign interference”. As a co-signatory to the Joint Declaration, we have a duty to speak out when we have concerns.

As is normal practice globally, in order to have a clear understanding of the facts on the ground, we and other foreign governments have maintained dialogue with Hong Kong politicians across the political spectrum and from different parties – pro-establishment and pro-democracy. There is, however, a growing pattern of the mainland Chinese and Hong Kong authorities misrepresenting such normal diplomatic contact as “foreign collusion”. Alongside our international partners, we remain committed to continuing our normal diplomatic activity within Hong Kong.

Our assessment of Hong Kong’s judicial independence is increasingly finely balanced, but for now I believe that British judges can continue to play a positive role in supporting this judicial independence. We will continue to follow developments in this area closely.

With China now in a state of ongoing non-compliance with its international obligations under the UN-registered Sino-British Joint Declaration, the UK will continue to work with international partners to hold China to its legally binding obligations on Hong Kong. Upholding the promises it entered into freely is in the best interests of Hong Kong’s stability and prosperity.

I urge the Chinese and Hong Kong authorities to return to the framework for Hong Kong that China committed to in the Joint Declaration, under which it guaranteed that rights and freedoms of Hong Kongers would remain unchanged for 50 years from 1997. That, I believe, is the best way to build a positive future for Hong Kong – a future that commands the genuine support of the people of Hong Kong.

**Secretary of State for Foreign, Commonwealth and Development Affairs**

## INTRODUCTION

This series of Six-monthly Reports reflects our continuing interest in developments in Hong Kong and our commitment to the faithful implementation of the 1984 Sino-British Joint Declaration. This Declaration guaranteed that, for 50 years from 1997, the Hong Kong Special Administrative Region (SAR) would enjoy a high degree of autonomy, except in foreign and defence affairs, and that it would be “vested with executive, legislative and independent judicial power”. The continuation of Hong Kong’s social and economic systems, lifestyle, and rights and freedoms is guaranteed under the Joint Declaration. This arrangement is popularly referred to as ‘One Country, Two Systems’.

Events are covered in the report under the categories of:

- Significant political developments;
- Constitution and ‘One Country, Two Systems’;
- Legal and judicial developments; and
- Basic rights and freedoms.

The reporting period saw the first anniversary of the National Security Law (NSL), imposed on Hong Kong by Beijing in June 2020. In January, 55 pro-democracy politicians and activists were arrested under the NSL. 47 went on to be formally charged. In March, China’s National People’s Congress (NPC) introduced radical changes to Hong Kong’s electoral systems, further reducing the space for pro-democracy candidates to participate in Legislative Council and Chief Executive elections. In May, the Legislative Council passed a new law on oath-taking, which would allow for the disqualification of District Councillors. Pressure against pro-democracy activists and legislators increased yet further, with hundreds either arrested, charged or prosecuted under the NSL and other laws by the end of the reporting period.

Freedom of speech, freedom of expression and freedom of the press came under increasing pressure during the reporting period. In June, the Hong Kong authorities raided the offices of the Apple Daily newspaper, froze the company’s assets and arrested a number of its senior executives, leading to its closure just over a week later. Hong Kong’s public broadcaster was restructured, with content and journalists with critical opinions targeted and removed. “Patriotic education” was formally introduced in schools, alongside strict guidelines for teachers on how to teach national security and restrict any debate on the matter. Public gatherings remained prohibited, with the Hong Kong authorities citing Covid-19.

In response to Beijing’s overhaul of Hong Kong’s electoral systems, the UK declared a breach of the Joint Declaration on 13 March 2021. This was the third within a period of less than nine months (and the fourth in total since 2016), leading the UK to declare China to be in an ongoing state of non-compliance with the Joint Declaration.

## TIMELINE OF SIGNIFICANT DEVELOPMENTS

- **6 - 7 January** – National Security Police arrest 55 pro-democracy politicians and activists under the National Security Law (NSL).
- **11 January** – Andrew Cheung Kui-nung becomes Chief Justice.
- **29 January** – Mainland Chinese and Hong Kong Governments announce they will stop recognising British Nationals (Overseas) (BN(O)) passports as valid travel documents.
- **31 January** – UK Government opens the BN(O) visa route for applications.
- **1 February** – Hong Kong’s Court of Final Appeal (CFA) clarifies the bail provisions under the NSL, and revokes bail for Jimmy Lai Chee-ying.
- **4 February** – Hong Kong SAR Government introduces national security education to primary and secondary schools.
- **28 February** – 47 of the 55 arrested pro-democracy politicians and activists are charged with “conspiracy to commit subversion” under the NSL.
- **11 March** – China’s National People’s Congress (NPC) passes a Decision authorising its Standing Committee to draft legislation to impose changes to Hong Kong’s electoral system.
- **13 March** – Then UK Foreign Secretary, Rt. Hon. Dominic Raab, announces that the NPC’s Decision to impose changes to Hong Kong’s electoral system constitutes a breach of the Sino-British Joint Declaration, and declares China to be in a state of ongoing non-compliance with the Joint Declaration.
- **22 March** – The 12 Hong Kongers arrested in August 2020 when leaving Hong Kong by boat (Shenzhen 12) return to Hong Kong after completing jail terms in mainland China.
- **30 March** – China’s National People’s Congress Standing Committee (NPCSC) imposes changes on Hong Kong’s electoral system.
- **16 April** – Leading pro-democracy figures, including Jimmy Lai Chee-ying and Martin Lee Chu-ming, convicted of illegal assembly.
- **28 April** – Hong Kong’s Legislative Council passes the Immigration (Amendment) Bill.
- **12 May** – Hong Kong’s Legislative Council passes the Public Offices (Candidacy and Taking Up Offices) (Miscellaneous Amendments) Bill,

providing for the subsequent disqualifications of many pro-democracy District Councillors.

- **27 May** – Legislative Council approves changes to Hong Kong’s electoral system.
- **27 May** – Hong Kong Police refuse permission for the annual Tiananmen Square Massacre vigil for the second year, citing Covid-19 concerns.
- **17 June** – Hong Kong Police raid the office of Hong Kong newspaper Apple Daily, arresting journalists and freezing the newspaper’s assets.
- **23 June** – Apple Daily announces its closure.
- **23 June** – The trial of Tong Ying-kit, the first person to be charged under the NSL, begins.

## **SIGNIFICANT POLITICAL DEVELOPMENTS**

The political situation during the reporting period saw a substantial reduction in space for political opposition. Many of Hong Kong’s pro-democracy politicians were arrested, some on national security grounds, and the largest pro-democracy newspaper was forced to close.

### **Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (National Security Law)**

The National Security Law (NSL) was imposed on 30 June 2020. In its first year, 117 people were arrested and 61 charged; 70 were arrested under the NSL during the reporting period from January to June.

#### **Mass arrest of pro-democracy politicians and activists**

Between 6 and 7 January, National Security police arrested 55 pro-democracy politicians and activists for subversion. They included nearly all the pan-democratic legislators who served in the sixth Legislative Council term, as well as incumbent District Councillors and a US human rights lawyer. According to the Hong Kong SAR Government, the subversion charges related to organising and participating in unofficial primary elections between 11 and 12 July 2020, and supporting the “10 step mutual destruction scheme”. This plan, put forward by activist Benny Tai Yiu-ting, advocated gaining a parliamentary majority through legislative elections and then using it to vote down the Government budget repeatedly, forcing the Chief Executive



to resign. Tai's purported aim was that this would eventually prompt retaliation from the Chinese authorities, which in turn would lead foreign countries to impose sanctions.

Almost all of the 55 were released on bail shortly after their arrest (with the exception of Joshua Wong Chi-fung and Tam Tak-chi who were already in jail, and Wu Chi-wai, who police alleged had failed to surrender a BN(O) passport while on remand for another offence).

On 6 January, the then Foreign Secretary, Rt. Hon. Dominic Raab MP, made the following statement:

“The mass arrest of politicians and activists in Hong Kong is a grievous attack on Hong Kong’s rights and freedoms as protected under the Joint Declaration.

These arrests demonstrate that the Hong Kong and Chinese authorities deliberately misled the world about the true purpose of the National Security Law, which is being used to crush dissent and opposing political views.

The UK will not turn our backs on the people of Hong Kong and will continue to offer British Nationals (Overseas) the right to live and work in the UK.”

There were similar statements by other countries and international organisations, as well as calls for the immediate release of those arrested. Selected public statements are below:

*“Today’s arrests of more than 50 politicians and pro-democracy advocates by local authorities in Hong Kong is an outrage, and a reminder of the Chinese Communist Party’s contempt for its own people and the rule of law. Those arrested are guilty of nothing but exercising the democratic rights promised to them by treaty, and due to them through virtue of their humanity.”*

Then US Secretary of State, Mike Pompeo

*“Australia has consistently expressed concern that the National Security Law is eroding Hong Kong’s autonomy, democratic principles and rule of law.”*

Australian Minister for Foreign Affairs, Marise Payne

*“The mass arrest of activists and politicians in Hong Kong is a grave repression of political pluralism.”*

Then Canadian Minister of Foreign Affairs, François-Philippe Champagne

*“These latest arrests indicate that – as had been feared – the offence of subversion under the National Security Law is indeed being used to detain individuals for exercising legitimate rights to participate in political and public life.”*

United Nations Office of the High Commissioner for Human Rights (OHCHR) spokesperson

*“These arrests penalise political activity that should be entirely legitimate in any political system that respects basic democratic principles. They are the latest indication that the National Security Law is being used by the Hong Kong and mainland authorities to stifle political pluralism in Hong Kong, and the exercise of human rights and political freedoms that are protected under Hong Kong law and international law.”*

European Union High Representative, Josep Borrell

*“This ruthless legislation gives the Beijing and Hong Kong authorities free rein to crush any dissenting views and puts all government critics at risk of imprisonment. Today’s arrests also illustrate how the broad scope of the law allows it to be applied in circumstances that do not qualify as genuine threats to national security.”*

Amnesty International

*“The arrests symbolize the ongoing weaponization of law to undermine the democratic aspirations and rights of Hong Kong people... This is a wholesale attack on democracy in Hong Kong, and a criminalization of freedom of expression, freedom of opinion, and freedom of association.”*

Coalition of 36 Non-Government Organisations, including Human Rights Watch

On 9 January, then Foreign Secretary issued a statement alongside the Foreign Ministers of Australia and Canada, and the US Secretary of State:

“We, the Foreign Ministers of Australia, Canada and the United Kingdom, and the United States Secretary of State, underscore our serious concern at the mass arrests of 55 politicians and activists in Hong Kong for subversion under the National Security Law.

The National Security Law is a clear breach of the Sino-British Joint Declaration and undermines the ‘One Country, Two Systems’ framework. It has curtailed the rights and freedoms of the people of Hong Kong. It is clear that the National Security Law is being used to eliminate dissent and opposing political views.

We call on the Hong Kong and Chinese central authorities to respect the legally guaranteed rights and freedoms of the people of Hong Kong without fear of arrest and detention. It is crucial that the postponed Legislative Council elections in September proceed in a fair way that includes candidates representing a range of political opinions.”

On 15 January, the US sanctioned six people under the Hong Kong Autonomy Act in response to the mass arrests and the imposition of the National Security Law. The individuals sanctioned included Hong Kong officials, mainland Chinese officials and officers in the National Security Division of the Hong Kong Police.

On 28 February, 47 of the 55 arrested pro-democracy politicians and activists were formally charged with conspiracy to commit subversion and taken into custody. Eight of those originally arrested, including US lawyer John Clancey, were not charged.

On 28 February, the then Foreign Secretary, Rt. Hon. Dominic Raab, said:

“The decision to charge 47 Hong Kong politicians & activists for subversion under the NSL is deeply disturbing. It shows in the starkest terms the NSL being used to eliminate political dissent rather than restore order - contrary to what the Chinese Government promised.”

On 1 March, the 47 appeared in a Magistrates’ Court for a bail hearing. The hearing was adjourned after over ten hours of proceedings, after one of the defendants fainted in the dock. On 4 March, after four days of proceedings, 15 of the defendants were granted bail. The Department of Justice appealed this ruling immediately. There were a number of further individual hearings and, by the end of the reporting period, 12 defendants had been granted bail and 35 remained in custody.

On 31 May, Chief Magistrate Victor So Wai-tak scheduled a hearing for 8 July to formalise the transfer of the case to the High Court.

### **Raid and closure of Apple Daily newspaper**

Police first raided the offices of pro-democracy newspaper Apple Daily on 10 August 2020, as recorded in the previous Six-monthly Report to Parliament. The newspaper frequently published articles critical of the Hong Kong SAR Government and mainland authorities. The police arrested the newspaper’s founder Jimmy Lai Chee-ying, who was subsequently charged with collusion with foreign forces under the National Security Law.

On 17 June, over 200 police officers again entered the Apple Daily newsroom, seizing computers and journalistic materials. The police arrested the editor-in-chief and four other executives of Apple Daily and its parent company Next Digital, also for collusion with foreign forces under the NSL. The same day, Senior Superintendent Steve Li Kwai-wah stated that the arrests related to over 30 articles published in the newspaper which allegedly called for foreign sanctions. Police also froze HKD\$18m (£1.67m) of assets.

In response, the then Foreign Secretary, Rt. Hon. Dominic Raab, stated:

“Today’s raids and arrests at Apple Daily in Hong Kong demonstrate Beijing is using the National Security Law to target dissenting voices, not tackle public security. Freedom of the press is one of the rights China promised to protect in the Joint Declaration and should be respected.”

The newspaper was unable to access funds and announced its closure on 23 June. One million copies of the final edition were printed; large queues formed at vendors and the final edition sold out overnight.

Another Apple Daily writer was arrested by police on 23 June, and on 27 June a senior Apple Daily journalist was arrested at the airport as he tried to leave Hong Kong.

On 23 June, the day Apple Daily announced its closure, the then Foreign Secretary, Rt. Hon. Dominic Raab, made the following statement:

“The forced closure of Apple Daily by the Hong Kong authorities is a chilling blow to freedom of expression in Hong Kong.

It is crystal clear that the powers under the National Security Law are being used as a tool to curtail freedoms and punish dissent – rather than keep public order.

The Chinese government undertook to protect press freedom and freedom of speech in Hong Kong under the UK-Sino Joint Declaration. It must keep its promises, and stand by the commitments it freely assumed.”

The actions against Apple Daily attracted international criticism. The EU noted that the NSL was “being used to stifle freedom of the press and the free expression of opinions”. The then Canadian Minister of Foreign Affairs, Marc Garneau, said the law was “being used as a tool to suppress media freedom and punish dissidents”.

US President Joe Biden called it “a sad day for media freedom in Hong Kong and around the world”.

### **Prosecution of pro-democracy activists and politicians**

There have also been a number of non-NSL prosecutions against pro-democracy politicians and activists.

As covered in previous Six-monthly Reports to Parliament, on 18 April 2020 15 pro-democracy politicians and activists were arrested for organising or participating in unauthorised protests between August and October 2019. The case was divided into four separate prosecutions, relating to protests on:

- 18 August 2019

- 31 August 2019
- 01 October 2019
- 20 October 2019

Some defendants were tried for more than one protest. As at the end of the reporting period, all were found guilty of all charges they had faced.

On 16 April 2021, the District Court concluded the cases relating to the 18 August and 31 August protests. Twelve defendants, including Jimmy Lai Chee-ying, received jail sentences up to 18 months. Four of the other defendants, including veteran democratic campaigners Martin Lee Chu-ming, were given suspended sentences. The judge found that the defendants deliberately defied the police, and that while their protest was peaceful, it posed a risk of violence.

A Foreign, Commonwealth and Development Office spokesperson made the following statement:

“The Hong Kong authorities’ decision to target leading pro-democracy figures for prosecution is unacceptable and must stop.

The right to peaceful protest is fundamental to Hong Kong’s way of life - protected in both the Joint Declaration and the Basic Law - and it should be upheld.”

Canada, the European Union and the United States made statements expressing similar concerns, noting restrictions on freedom of expression and assembly, and the lengthy imprisonment of pro-democracy figures for non-violent acts.

On 28 May, the District Court handed down its sentencing of ten defendants, including Jimmy Lai Chee-ying, for their involvement in the 1 October 2019 protest. The defendants received jail sentences up to 18 months.

The case for the 20 October 2019 protest did not conclude during the reporting period.

### Tiananmen Square Massacre vigil arrests

26 pro-democratic politicians and activists, including Joshua Wong Chi-fung and Jimmy Lai Chee-ying, were arrested for unauthorised assembly relating to their participation in a vigil on 4 June 2020 for the victims of the 1989 Tiananmen Square massacre. The vigil had been banned by the police, who cited Covid-19 restrictions. On 6 May 2021, Wong was sentenced to 10 months in jail after pleading guilty. Three serving District Councillors also pleaded guilty and were subsequently disqualified as a result. By the end of the reporting period, the trial for the 22 others had yet to take place.

## **12 Hong Kongers detained in mainland China (Shenzhen 12)**

As covered in the previous Six-monthly Report, 12 Hong Kongers aged between 16 and 33, including pro-democracy activists, were arrested on 23 August 2020 by the Guangdong Coast Guard for allegedly entering mainland Chinese waters illegally via speedboat, while trying to leave Hong Kong. They were detained and jailed in mainland China.

Two minors were not charged and were transferred to the custody of the Hong Kong Police on 30 December 2020. Two defendants remained in detention in the mainland.

The eight others were returned to Hong Kong on 22 March 2021 after serving their sentences. On 24 March, one of those, Andy Li Yu-hin, was charged under the NSL with collusion with foreign forces. On 1 April, over 100 Parliamentarians from 18 different legislatures signed a letter calling for his release. Li's family were unable to contact him in the days following his return and noted that they had not appointed his legal representatives. This led to media speculation that Li's legal representatives were not of his choosing. Following his return from the mainland, Li was reportedly held in solitary confinement in Siu Lam Psychiatric Centre, though the Correctional Services Department declined to confirm Li's whereabouts, noting that they handle cases according to inmates' wishes.

## **Immigration (Amendment) Bill**

On 4 December 2020, the Hong Kong SAR Government introduced the Immigration (Amendment) Bill to the Legislative Council. The Government said that the Bill would introduce measures to deal more efficiently with non-refoulement asylum claims.

The Bill contained provisions which would give the Immigration Director power to direct an airline carrier whether or not to carry a particular passenger. It also contained provisions to allow immigration officers in Hong Kong to carry firearms.

On 11 February 2021, the Hong Kong Bar Association (HKBA) said that the Bill would give the Immigration Director "apparently unfettered power" to prohibit any person from leaving Hong Kong. A HKBA paper noted that that the proposed legislation did not set out the grounds for when the new powers could be used and lacked safeguards and judicial oversight.

On 13 February, the Hong Kong Security Bureau responded in a public statement saying that the right of residents to enter or leave Hong Kong would not be affected, and that more specific subsidiary legislation would be introduced. The HKBA noted that it would be desirable if the primary legislation were updated to clarify that the Immigration Director's powers to prohibit people boarding flights would apply only to inbound flights heading to Hong Kong, and not departing flights.

On 24 February, the Security Bureau set out in a paper to the Legislative Council that "there is no provision in the Immigration Ordinance that prohibits any person from leaving Hong Kong". However, the paper also reiterated that it was unnecessary to

specify in the primary legislation that the new powers would apply to inbound flights only.

The Legislative Council passed the Bill on 28 April. Then Secretary for Security John Lee Ka-chiu dismissed “rumours” of exit bans and stated that the law’s provisions would apply only to inbound flights, as would be made clear in subsidiary legislation.

As of 30 June, the Hong Kong SAR Government had not introduced secondary legislation.

In response, the FCDO updated its Travel Advice for Hong Kong:

“The Immigration (Amendment) Bill is in force from 1 August. It contains powers that could prevent people from leaving the Hong Kong SAR. The Hong Kong SAR Government has given undertakings that such powers will not be used and that the ability to remove people from flights will be applied only to stop certain asylum seekers from entering Hong Kong.”

**The Hong Kong SAR Government has said that these powers will only be used to stop certain asylum seekers entering Hong Kong, rather than stopping people from leaving. With our international partners, we have urged the Hong Kong authorities to guarantee that this legislation is not misused by putting in place further legislation as soon as possible. The right of people to leave Hong Kong is guaranteed under the Basic Law.**

### **Hong Kong SAR Government reshuffle**

On 25 June, the Hong Kong SAR Government announced the appointment of John Lee Ka-chiu as the Chief Secretary for Administration and Chris Tang Ping-keung as the Secretary for Security. Both are former police officers. Raymond Siu Chak-yeung was appointed as the new Police Commissioner.

## **CONSTITUTION AND ‘ONE COUNTRY, TWO SYSTEMS’**

The mainland Chinese authorities continued to redefine the constitutional relationship between the mainland and Hong Kong and what ‘One Country, Two Systems’ means in practice. The National People’s Congress (NPC) passed a Decision to introduce sweeping changes to Hong Kong’s electoral system to ensure “patriots rule Hong Kong”. The Hong Kong SAR Government introduced a requirement for civil servants to take an oath of allegiance, while new legislation set out the conditions for disqualifying District Councillors.

## **National People’s Congress (NPC) changes Hong Kong’s electoral system**

On 22 February, Hong Kong and Macau Affairs Office (HKMAO) Director Xia Baolong said that Hong Kong’s electoral system should be “improved” to ensure patriots govern Hong Kong. Xia suggested that patriots must be supporters of the Chinese Communist Party, and that the executive, legislative and judicial branches of the Hong Kong SAR should be staffed by patriots only. On 28 February, the mainland Chinese government held a forum in Shenzhen on changing Hong Kong’s electoral system.

On 11 March, China’s NPC adopted a Decision on “Improving the electoral system of the Hong Kong SAR”. The Decision instructed the NPC Standing Committee to change the methods set out in the Basic Law for selecting the Chief Executive and forming the Legislative Council and tasked the Hong Kong SAR Government with amending relevant local laws. The Decision mandated a number of fundamental changes to Hong Kong’s electoral system, including:

1. Expanding the Legislative Council from 70 to 90 members.
2. Requiring an Election Committee to nominate the candidates for both the Chief Executive and the Legislative Council. The Election Committee must also select part of the membership of the Legislative Council directly.
3. Establishing a candidate qualification review committee to evaluate the suitability of the candidates for the Election Committee, Chief Executive and Legislative Council.

The NPC Decision ignored the process for constitutional reform set down in the Basic Law and the “Five-step process of Constitutional Development” elaborated in the 2004 NPC Standing Committee’s (NPCSC) Decision. The previous method set down in the Basic Law had stipulated that constitutional reform would require endorsement from two thirds of the Legislative Council members and the consent of the Chief Executive, with changes then reported to the NPCSC for the record.

On 11 March, the then Foreign Secretary, Rt. Hon. Dominic Raab, made the following statement:

“This is the latest step by Beijing to hollow out the space for democratic debate in Hong Kong, contrary to the promises made by China itself.

This can only further undermine confidence and trust in China living up to its international responsibilities and legal obligations, as a leading member of the international community.”

US Secretary of State Antony J. Blinken described the changes as an “assault on democracy”. The EU High Representative Josep Borrell noted that the changes “run counter to the commitments to greater democratic representation through universal suffrage”. Canada, Australia and New Zealand also released statements expressing their serious concern.



On 12 March, G7 Foreign Ministers and the High Representative of the European Union issued a joint statement:

“We, the G7 Foreign Ministers of Canada, France, Germany, Italy, Japan, the United Kingdom and the United States of America and the High Representative of the European Union, are united in expressing our grave concerns at the Chinese authorities’ decision fundamentally to erode democratic elements of the electoral system in Hong Kong. Such a decision strongly indicates that the authorities in mainland China are determined to eliminate dissenting voices and opinions in Hong Kong.

The package of changes approved by the National People’s Congress, combined with mass arrests of pro-democracy activists and politicians, undermines Hong Kong’s high degree of autonomy under the “One Country, Two Systems” principle. The package will also stifle political pluralism, contrary to the aim of moving towards universal suffrage as set out in the Basic Law. Furthermore, the changes will reduce freedom of speech which is a right guaranteed in the Sino-British Joint Declaration.

The people of Hong Kong should be trusted to cast their votes in the best interests of Hong Kong. Discussion of differing views, not silencing of them, is the way to secure the stability and prosperity of Hong Kong.

We call on China to act in accordance with the Sino-British Joint Declaration and its other legal obligations and respect fundamental rights and freedoms in Hong Kong, as provided for in the Basic Law. We also call on China and the Hong Kong authorities to restore confidence in Hong Kong’s political institutions and end the unwarranted oppression of those who promote democratic values and the defence of rights and freedoms.”

Following the NPC Decision, Chief Executive Carrie Lam announced that Legislative Council elections would take place on 19 December 2021 and the Chief Executive elections on 27 March 2022.

On 13 March, the then Foreign Secretary, Rt. Hon. Dominic Raab, released a further statement, declaring Beijing to be in a state of ongoing non-compliance with the Joint Declaration:

“Beijing’s decision to impose radical changes to restrict participation in Hong Kong’s electoral system constitutes a further clear breach of the legally binding Sino-British Joint Declaration.

This is part of a pattern designed to harass and stifle all voices critical of China’s policies and is the third breach of the Joint Declaration in less than nine months.

The Chinese authorities’ continued action means I must now report that the UK considers Beijing to be in a state of ongoing non-compliance with the Joint

Declaration - a demonstration of the growing gulf between Beijing's promises and its actions.

The UK will continue to stand up for the people of Hong Kong. China must act in accordance with its legal obligations and respect fundamental rights and freedoms in Hong Kong."

Between 15 and 17 March, mainland Chinese officials participated in a series of meetings in Hong Kong to discuss the changes with local businesses and pro-Beijing supporters.

On 30 March, the NPCSC voted unanimously to pass its revisions of Annexes I and II of the Basic Law. Key changes include:

- The Legislative Council will be composed of 40 seats elected by the Election Committee; 30 from Functional Constituencies, and 20 seats directly elected by the population. This reduces the proportion of directly elected seats from 35/70 to 20/90.
- The five Functional Constituency "super seats" in the Legislative Council for District Councillors were abolished, and District Councillors removed from the Election Committee (pro-democracy candidates won 393 of 452 seats in the November 2019 District Council elections).
- As well as gaining new powers to elect Legislative Council members, the Election Committee will be expanded from 1,200 to 1,500 members. 300 seats are allocated to a new subsector, consisting of Hong Kong deputies to the NPC, Hong Kong members of the National Committee of the Chinese People's Political Consultative Conference (CPPCC), and representatives of Hong Kong members of relevant national organisations.
- Candidates for the Chief Executive and Legislative Council need to secure nominations from each of the five Election Committee subsectors, creating a veto for each subsector.
- The Candidate Eligibility Review Committee will evaluate candidates based on a prior review by the National Security Police. No judicial challenge is allowed to the Committee's decisions.
- Voting procedures in the Legislative Council were altered.

In response, the then Foreign Secretary, Rt. Hon. Dominic Raab, said:

"Today China enacted changes to Hong Kong's electoral system which are a clear breach of the Joint Declaration – undermining the freedoms of the people of Hong Kong and breaking Beijing's international obligations".

On 13 April, the Hong Kong SAR Government introduced local legislation to amend relevant Hong Kong laws. The Legislative Council passed the Improving Electoral System (Consolidated Amendments) Bill on 27 May, and the legislation came into

effect on 31 May. The legislation also redrew the election boundaries for Hong Kong's geographical districts and made it illegal to incite people to cast blank ballots.

**China's National People's Congress acted unilaterally in its Decision on electoral changes, without prior consent from Hong Kong's Legislative Council. The NPC's Decision reverses China's promise to Hong Kong in the Basic Law of gradual progress towards a system of universal suffrage, and further hollows out the Legislative Council. This constitutes a clear breach of the Sino-British Joint Declaration.**

### **Legislative Council Rules of Procedure**

On 25 March, the Legislative Council adopted changes to the Rules of Procedure, to ensure an "effective and efficient" legislature. The changes included enabling the Legislative Council President to suspend members for "grossly disorderly conduct", allowing an existing Committee chair to continue business until the election of a new chair, and reducing the time available for debate as well as individual speaking time. The amendments were widely understood to be aimed at ending delaying tactics previously employed by pan-democratic politicians.

### **Civil Servant oath-taking**

In July 2020, the Hong Kong SAR Government elaborated new criteria for upholding the Basic Law. In November 2020, an NPCSC Decision confirmed similar criteria, to which election candidates or serving legislators would need to adhere in order to "uphold Hong Kong's Basic Law". Support of Hong Kong independence, refusal to recognise China's sovereignty over Hong Kong, soliciting intervention by foreign forces or engaging in other activities endangering national security would be considered as failing in their duty. The criteria applied explicitly to the sitting legislators already disqualified from standing for the next Legislative Council, leading to the immediate disqualification of four members in November 2020.

On 15 January 2021, these criteria were applied to civil servants; Hong Kong's 180,000 civil servants were given one month to sign an oath of allegiance, committing to uphold the Basic Law. The Civil Service Bureau stated that refusal to take the oath could result in dismissal.

The Union for New Civil Servants, which was formed during the 2019 anti-Extradition Bill protests, announced its decision to disband immediately citing fears for the personal safety of its members. Other major civil service unions requested greater clarity from the Hong Kong SAR Government about what would constitute a breach of the oath.

On 19 April, during a Legislative Council meeting, Secretary for the Civil Service Patrick Nip Tak-kuen stated that 129 members of the civil service had failed to sign the declaration, with 25 people resigning. He noted that none of the reasons given for

refusing to sign, including free speech, had been accepted by the Government and that the Government would fast-track the dismissals.

### **Oath-taking requirement for holders of public office**

Article 6 of the National Security Law introduced a legal requirement for election candidates and holders of public office to swear an oath of allegiance to the Hong Kong SAR. On 12 May, the Legislative Council passed the Public Offices (Candidacy and Taking Up Offices) (Miscellaneous Amendments) Bill 2021, in order to fulfil this requirement.

The new law applies to members of the Legislative Council, Executive Council, judicial officers and District Councillors. It expands the list of behaviours required to uphold the Basic Law. It also introduces a set of conditions that holders of public office need to fulfil and actions to avoid, including indiscriminately objecting to Government motions, committing acts that have a tendency to undermine the overall interests of the Hong Kong SAR, or disrespecting any symbol of national sovereignty.

Under the new law, any prospective candidates for Legislative Council or District Council elections, and serving members, could be disqualified according to the new criteria. The law also abolished the time limits for the Secretary of Justice to bring a prosecution.

A number of District Councillors resigned following the introduction of the new rules.

As of 30 June, the Hong Kong SAR Government had not specified the occasions when District Councillors would have to pledge allegiance.

**Oath-taking must not be used to arbitrarily disqualify candidates from elections, or undermine the provision in the Joint Declaration that the “appointment and promotion of public servants shall be on the basis of qualifications, experience and ability.” The UK calls on the Hong Kong SAR Government to uphold freedom of speech in line with the Joint Declaration, and to allow the public a genuine choice of political representatives.**

### **Expansion of the Liaison Office of the Central People’s Government (CGLO) in Hong Kong**

According to local media reporting, the Liaison Office of the Central People’s Government (CGLO) in Hong Kong expanded during the reporting period, with an additional 100 staff transferred from the mainland and deployed from January onwards, to fulfil additional - unspecified - responsibilities.

## **Hong Kong/Taiwan relations**

On 18 May, the Hong Kong SAR Government suspended operations of its Economic, Trade and Cultural Office (HKETCO) in Taiwan. A Government spokesperson stated that Taiwan had "grossly interfered in Hong Kong's affairs", including by offering assistance to violent protesters. They also said that HKETCO staff had been "threatened by radicals" in Taiwan.

On 21 June, Taiwan's Mainland Affairs Council stated that, since July 2018, members of the Taipei Economic and Cultural Office (TECO) in Hong Kong have been asked to sign a pledge to observe the "One China principle" as a precondition for receiving visas. They noted that six TECO staff were asked to sign this pledge in June, which they could not accept, making it untenable for TECO staff to remain in Hong Kong. According to media reporting, this left the Taipei office with only one remaining staff member.

## **Relationship between Hong Kong courts and the National People's Congress Standing Committee (NPCSC)**

Whether NPCSC Decisions are binding on, or can be challenged by, Hong Kong's courts has been a longstanding constitutional issue.

On 27 April, High Court judge Anderson Chow Ka-ming rejected an application for judicial review of the Bill to change Hong Kong's electoral system. The judge noted that to the extent that the draft legislation was based on the NPC and NPCSC decisions, there would not likely be scope for constitutional review. The judge cited the 9 February Court of Final Appeal (CFA) ruling on Jimmy Lai Chee-ying (see below) to infer that Hong Kong Courts have no room to challenge the legislative acts of the NPC and NPCSC.

## **Co-location of Chinese mainland officials at West Kowloon rail terminus**

The binding nature of NPCSC Decisions was discussed again in the context of legal challenges against the Express Rail Link (XRL). The XRL is a high-speed rail link between Guangzhou, Shenzhen and Hong Kong which opened in September 2018.

The XRL allows the co-location of mainland Chinese officials in Hong Kong's West Kowloon terminus. It also allows for mainland law to be practised inside part of the terminus building and on 26km of track within Hong Kong. Basic Law Article 18 sets out that, barring a state of emergency, mainland laws - except those that relate to foreign affairs or defence, or are outside the autonomy of the SAR - shall not be applied to Hong Kong. As covered in previous Six-monthly Reports to Parliament, on 27 December 2017 the NPCSC passed a Decision to declare the XRL arrangements consistent with the Basic Law, before the Hong Kong Courts had opined on the issue. Five judicial review applications were launched in Hong Kong, questioning the legality

of the XRL arrangements, and leading to the question of whether Hong Kong's courts could challenge or overrule an NPCSC Decision.

On 11 June 2021, Hong Kong's Court of Appeal upheld a lower Court's ruling confirming the legality of the XRL arrangements. The Court asserted that the XRL arrangements were proportionate for the socio-economic benefit provided, outweighing Article 18 in these specific circumstances. The Court also noted the "highly persuasive" status of the NPCSC Decision, but stopped short of addressing whether it was legally binding. The judges noted that they had not been given full assistance to resolve the constitutional issue, which would have to wait until another occasion. The judges also put forward that once the NPCSC has adopted a Decision, Hong Kong's Courts must be "very circumspect" in adopting a different interpretation of the Basic Law.

## **LEGAL AND JUDICIAL SYSTEMS**

Implementation of the National Security Law introduced profound changes to Hong Kong's legal system, including changes to bail procedures and jury trials. The Department of Justice continued to seek prosecutions for the 2019 protests, including by expanding the definition of existing laws and using old laws on sedition.

### **National Security Law: Bail provisions**

As covered in the previous Six-monthly Report, Jimmy Lai Chee-ying, the founder of Apple Daily newspaper, was charged in December 2020 with collusion with foreign forces under the National Security Law. Lai was granted bail, but taken back into custody on 31 December after Hong Kong's Court of Final Appeal (CFA) determined that a lower court may have made an error in interpreting the NSL bail conditions.

On 9 February, the CFA handed down its interpretation of the NSL bail provisions.

Firstly, the CFA addressed the question of whether it could review the constitutionality of the NSL bail provisions. The CFA held that it had no power to review legislative acts of the NPC and NPCSC done in accordance with the Basic Law, such as the NSL.

Secondly, the CFA held that the NSL bail provisions create a specific exception to normal HKSAR rules and principles, setting a stricter limit. The starting point under the NSL is that no bail will be granted to those suspected of offences under the NSL. The CFA held that, in order to grant bail, judges must apply a two-step process. The first step is to decide if there are sufficient grounds to believe that a suspect will "not continue to" endanger national security. Only if the first test is passed, will the judge consider all the normal matters relevant to the grant or refusal of bail, such as flight risk.

The CFA confirmed the lower Court's error in granting bail to Lai, and as such he was taken back in custody.

**We are now seeing the effects of a law with loosely defined provisions, backed up by the threat of potentially long jail sentences and transfer of cases to mainland China for prosecution and sentencing. Confidence in the rule of law will be undermined if there are further politicised prosecution decisions.**

### **National Security Law: Trial by jury**

Tong Ying-kit was the first person charged under the National Security Law. He was charged with terrorism and incitement to secession, after allegedly driving a motorbike into a group of police officers on 1 July 2020 while carrying a protest flag. On 5 February 2021, Secretary for Justice Teresa Cheng Yeuk-wah, invoked powers under Article 46 of the NSL to direct that Tong's trial take place without jury. She cited concerns for the personal safety of jurors and their families, and stipulated that holding a jury trial could risk justice being impaired. Tong's legal team applied for a judicial review of the decision. On 20 May, the High Court rejected the application. The judge noted that there is no general right to a jury trial in Hong Kong and that Article 46 of the NSL establishes a new mode of trial when requested by the Secretary of Justice. On 22 June, the Court of Appeal upheld the decision. Tong's trial began on 23 June, without jury, and had not concluded by the end of the reporting period.

### **Protest convictions**

According to Hong Kong Police statistics, from 9 June 2019 to 30 April 2020, a total of 10,260 people were arrested in relation to the anti-Extradition Bill protests. Of this number, 2,608 have been charged and 7,652 are pending further investigation. 1,300 cases have been brought to Court, with 715 people convicted. Nearly 40% of those arrested were students.

### **Joint Enterprise**

On 25 March, the Court of Appeal responded to a request from the Department of Justice to clarify the law on Joint Enterprise. The Court ruled that the principle of Joint Enterprise can apply to public order offences. This means that people can be prosecuted for rioting and illegal assembly even if they were not physically present. The court ruled that those who aid and abet participants can face the same charges as actual participants. The Court cited examples, including someone remotely overseeing and directing events, people providing funding, those who promote an illegal assembly on social media, scouts, drivers, or those providing backup at the scene. The verdict will likely increase the number of convictions for rioting and illegal assembly charges.

On 7 June, a defendant named Tong Wai-hung was given leave to appeal the findings at the Court of Final Appeal. As at the end of the reporting period, no date had been set for the CFA hearing.

### **Use of sedition laws**

The Hong Kong SAR Government began to use colonial-era sedition offences still in place in Hong Kong, despite the offences having last been used in 1952.

Activist Tam Tak-chi was arrested in September 2020 for uttering seditious words, allegedly including protest slogans such as “Five Demands, not one less”. On 7 February, internet radio host Wan Yiu-sing was arrested by National Security Police and charged with four counts of seditious intent.

On 22 June 2021, 20 police officers arrested a 40-year-old man for uttering seditious words, after a passer-by complained about a “Liberate Hong Kong” banner hanging from a drying rack outside his flat. A week later police arrested a 37-year-old man for seditious intent related to a “Liberate Hong Kong” sticker allegedly on the gate of his flat.

### **Comments on judicial independence by the Director of the Office for Safeguarding National Security of the Central Government in Hong Kong**

On 30 June 2021, in an interview with East Week magazine, Zheng Yanxiong, Director of Beijing’s Office for Safeguarding National Security in Hong Kong, suggested that Hong Kong’s judicial independence could be revoked if the judiciary does not uphold China’s national interests. Zheng said, “Hong Kong’s independent judicial power is authorised by the National People’s Congress. It should thus reflect the country’s will and interests, or else it will lose the legal premise of its authorisation”.

### **Judicial reform**

PRC party-state media and Hong Kong pro-establishment politicians have called for reform of the judiciary, including establishing a non-judicial body to monitor the conduct of judges. On 7 May, the Judiciary set out to the Legislative Council a new way to handle complaints against judges. Under the proposed mechanism, complaints that are “serious or complex, or have aroused wide public attention” will first be investigated by a panel of judges, then referred to a new advisory committee for review. For the first time, the committee would allow members of the public to monitor judicial conduct. On 14 May, judicial Administrator Esther Leung Yuet-yin gave further details, confirming that judges would still be in the majority on the advisory panel, politically neutral members of the public would be appointed by the Chief Justice, and that the Chief Justice would retain the final decision.



## **Judicial appointments and non-permanent judges on the Court of Final Appeal (CFA)**

On 11 January 2021, Andrew Cheung Kui-ning was appointed Chief Justice following the retirement of Geoffrey Ma Tao-li.

On 25 February, the judiciary confirmed the renewal of the terms of two British non-permanent judges on the Court of Final Appeal (CFA) for three years, starting on 1 March:

- The Right Honourable the Lord Neuberger of Abbotsbury
- The Right Honourable the Lord Walker of Gestingthorpe

On 4 June, the Judiciary announced that the Right Honourable the Baroness Brenda Hale of Richmond would not extend her term on the CFA beyond the expiry of her existing term on 29 July 2021, for personal reasons.

Following the death of the Right Honourable the Lord Peter Julian Millett on 27 May, at the end of the reporting period there were thirteen foreign non-permanent judges on the CFA: nine from the United Kingdom, three from Australia and one from Canada.

On 8 June, during a regular weekly news conference, Chief Executive Carrie Lam said that she believed “the judiciary in Hong Kong is as hard as a rock” and that “the Chief Justice will continue to invite overseas judges” to sit on Hong Kong’s courts.

## **Actions against the Hong Kong Bar Association (HKBA)**

The Hong Kong Bar Association (HKBA) represents and regulates barristers in Hong Kong. On 21 January, the newly elected Bar Association Chairman, Paul Harris SC said he hoped to explore with the Hong Kong Government if changes to the National Security Law would be possible, in order that foreign countries might reinstate suspended extradition treaties. Harris was subsequently criticised in PRC party-state media for a number of days over the remarks. On 29 January, the Central Government Liaison Office (CGLO) accused Harris of abusing his power to “cheer for independence advocates”. A further statement from the Hong Kong and Macau Affairs Office accused Harris of hostility to the Chinese Communist Party and of colluding with foreign forces.

On 3 February, the HKBA issued a statement noting that the organisation and its chairman were inviolable supporters of “One Country, Two Systems”.

In April, responding to the sentencing of Martin Lee Chu-ming and others (see p.13), Harris noted that it was the first time imprisonment had been imposed for entirely peaceful unauthorised procession, and that without channels for peaceful expression people may turn to violence. This brought renewed criticism from Chinese state media and authorities. The CGLO urged the HKBA to consider the implications of Harris continuing as chairman, warning that it could be “dragged into an abyss”, and urged the HKBA to abide by the principle of “patriots ruling Hong Kong”.

**It is essential that both the Hong Kong judiciary and Hong Kong's legal institutions are able to operate independently and free from political interference.**

**British judges have played an important role in supporting the independence of Hong Kong's judiciary for many years. The UK Government hopes that this can continue. The UK judiciary is independent of the Government and it is for the judges themselves to make their own decisions regarding their continued service in Hong Kong. The UK Supreme Court continues to assess the situation in Hong Kong, in discussion with the UK Government.**

## **BASIC RIGHTS AND FREEDOMS**

The rights and freedoms of the people of Hong Kong came under increased pressure during the reporting period. Freedom of speech, freedom of expression and freedom of the press were further restricted. Further pressure on Apple Daily newspaper led to its closure, while Hong Kong's public broadcaster was reformed. Education underwent further reforms in line with wider efforts to impose "patriotic" views. Freedom of assembly remained restricted, with the Hong Kong authorities citing Covid-19.

### **Press and media freedom**

On 3 May, the Hong Kong Journalists Association (HKJA) released the Hong Kong Press Freedom Index 2020. The index dropped to a record low, with 91 per cent of the journalists who responded saying press freedom in Hong Kong had worsened compared to the previous year. As many as 85% believed that the Hong Kong SAR Government was responsible for the suppression of press freedom and 99% felt that the National Security Law had damaged press freedom.

### Raids and closure of Apple Daily newspaper

As covered under 'Significant Political Developments', on 17 June, the Hong Kong Police raided the Apple Daily newsroom and arrested the editor-in-chief and four other executives of Apple Daily and its parent company Next Digital, under the National Security Law. The police also froze the company's assets, leading Apple Daily to announce its closure on 23 June. Two other former Apple Daily staff were arrested on 23 June and 27 June.

### Reform of public broadcaster

On 19 February, the Hong Kong SAR Government released a report on public broadcaster Radio Television Hong Kong's (RTHK) governance and management.

The report recommended greater editorial oversight, including to ensure “proper handling” of sensitive issues. On the same day, the Hong Kong Government appointed then Deputy Secretary for Home Affairs, Patrick Li Pak-chuen, as the new Broadcasting Director. Following Li’s appointment, a number of political television programmes were removed from the air. Responding to the introduction of new editorial guidelines, then RTHK programme staff union chairperson, Gladys Chiu Si-yan said, “The new set of standards are very vague to us. Some staff are also worried that they may be targeted by management because of their political beliefs.”

On 3 May, RTHK decided not to renew the contract of high-profile journalist Nabela Qoser, known for her rigorous questioning of senior government officials. The RTHK management also withdrew from the Human Rights Press Awards, which had contained nominations for Qoser and Bao Choy Yuk-ling (see below).

### Suspension of BBC World News

On 12 February, RTHK suspended broadcasting of BBC World Service and BBC News Weekly. The decision followed a ban by Chinese media regulator National Radio and Television Administration (NRTA) on broadcasting BBC content in mainland China.

### Case of Bao Choy Yuk-ling

In January, RTHK producer Bao Choy Yuk-ling pleaded not guilty to two charges of making false statements under the Road Traffic Ordinance. Choy was arrested in November 2020 for allegedly making a false statement as to why she obtained vehicle licensing information from a publicly accessible database. She had been investigating police misconduct during the 2019 incident at Yuen Long. On 22 April, Choy was convicted and given a fine of HKD 6,000. Choy has appealed her conviction, saying, “I firmly believe registry search is not a crime, journalism is not a crime, uncovering the truth is not a crime”.

In April, a reporter from PRC party-state media outlet Ta Kung Pao was charged with the same offence as Bao Choy. In June, the Hong Kong Department of Justice withdrew the charge against the reporter, who was instead given a binding over order for one year and ordered to pay court costs.

### Access to Companies Registry

In March, the Hong Kong Government proposed restricting public access to personal information of directors and executives held in the Companies Registry. Chief Executive Carrie Lam said the press should enjoy “no privilege” over company registry searches. On 18 June, the Hong Kong Government introduced relevant subsidiary legislation under the Companies Ordinance, to be implemented in August 2021. Under

the new system, journalists are denied access to the addresses and full identity card numbers of company directors, but are still able to access company directors' information, including personal correspondence addresses and partial identification numbers.

**The use of the National Security Law to suppress journalism and force the closure of Apple Daily was a blow to freedom of press in Hong Kong. Freedom of the press has been central to Hong Kong's success and international reputation over many years.**

**Freedom of the press is one of the rights set down in paragraph 3(5) of the Joint Declaration. It is vital that journalists are able to investigate and report without undue interference or fear of arrest. It is imperative that this freedom, along with the other rights and freedoms in the Joint Declaration, is fully respected.**

## **Academic freedom**

In February, the Chinese University of Hong Kong suspended its provision of administrative support and venues to the newly elected student union. The university stated its objection to the political views expressed by the students, and noted that it would not tolerate any behaviour on campus that might "endanger national security". Thousands of staff, students and alumni signed an online petition demanding the university retract the decision. More than 3,000 previous members of student unions also signed a further joint statement condemning the university's posture. On 1 March, the student union cabinet resigned, citing increasing political pressure.

On 29 April, the University of Hong Kong suspended its provision of financial services and facilities to its student union. In its statement, the university accused the union of "utilising the campus for political propaganda" and "making inflammatory public statements and unfounded allegations against the university".

On 26 May, Secretary for Education Kevin Yeung Yun-hung said public universities in Hong Kong were introducing measures to require student unions and their members to comply with the law – including the National Security Law. He also noted that universities should promote national security education to raise the awareness of national security and of the obligation to abide by the law.

## **Education**

### Freedom of expression in schools

In April, the Education Bureau disqualified a secondary school Liberal Studies teacher for "defaming the country, arousing students' hostility towards the country and the Chinese people, and undermining their sense of national identity".

According to a survey of 1,178 teachers conducted by the Professional Teachers' Union between April and May, two in five teachers expressed an intention to leave the

education sector. 70 per cent of the teachers intending to leave cited increasing political pressure as a major reason.

### Reform of Liberal Studies

In 2020, the Secretary for Education announced that Liberal Studies would be renamed and a new curriculum introduced. In March 2021, the Education Bureau proposed that the subject be renamed as Citizenship and Social Development, and would cover Hong Kong, the nation and the contemporary world. In April, the head of the Curriculum Development Council committee for the subject, Professor Lau Chi-pang, said concepts of “rule of law” and “social governance” will not be included in the new curriculum. He also suggested that National Security Police should educate teachers on how to teach the subject without breaking the law.

### Patriotic education in schools

On 22 March, the Secretary for Education said the Education Bureau would distribute to all primary and secondary schools a set of 48 picture books titled “My Home is in China” to foster a sense of patriotism in students.

In 2020, the Hong Kong Education Bureau notified all Hong Kong schools that they would be required to teach and enforce the National Security Law.

On 4 February 2021, national security education was added to the curriculum. A set of guidelines were issued to teachers on how to conduct lessons properly and not endanger national security. The guidelines make clear that national security is not for debate. Schools are also required to form a working group to promote and safeguard national security, submit an annual report on their efforts to the school governance authority, and report any rule-breaching behaviour to the police.

On 15 April, Hong Kong held its first “National Security Education” day.

**Freedom of speech is guaranteed in paragraph 3 (5) of the Joint Declaration. Students and teachers should be allowed to express themselves openly on a range of issues, without undue government censorship or fear of reprisals. It is important in any society that young people are given the opportunity to develop skills of critical thinking, including on politically contentious subjects.**

### **Freedom of assembly**

Public gatherings and demonstrations remained illegal during the reporting period, due to Covid-19 social distancing rules.

## Remembrance of the Tiananmen Square Massacre

On 27 May, the Hong Kong police refused permission for the annual 4 June Tiananmen Square Massacre vigil in Victoria Park for the second year in a row, citing Covid-19 concerns. On the morning of 4 June, police arrested Chow Hang-tung, the vice-chairwoman of the Hong Kong Alliance, who organise the annual vigil, for allegedly promoting unauthorised assembly. The Hong Kong Police closed several parts of Victoria Park and the Security Bureau released a statement warning the public not to enter. Police arrested at least six people near the park and fined a further 12 for breaches of social distancing rules.

On 30 May, the Hong Kong Alliance re-opened the 4<sup>th</sup> June Memorial Museum to the public. On 2 June, the Alliance temporarily shut down the museum, after officers from the Hong Kong Food and Environmental Hygiene Department suggested that the museum may be breaching the Places of Public Entertainment Ordinance.

### **Artistic freedom**

In March, PRC state-owned newspapers Wen Wei Po and Tai Kung Pao criticised the M+ Museum's decision to show works by dissident Chinese artist Ai Weiwei. The two newspapers said the museum collection could breach the National Security Law, calling on authorities to vet exhibits. In response, Chief Executive Carrie Lam said the Hong Kong Government would be "on full alert" for National Security Law breaches. Henry Tang Ying-yen, Chairman of the West Kowloon Cultural District, where the museum is based, said that the organisation would co-operate with police should any enquiry be received.

Also in March, state-owned newspapers accused the government-run Hong Kong Arts Development Council of violating the NSL by funding pro-democracy bodies, referring specifically to a protest documentary about the clashes at Polytechnic University in 2019. Subsequently, a cinema and two government arts centres cancelled screenings of the film. The Council noted that grants could be suspended if recipients violate Hong Kong laws.

On 29 March, Hong Kong's largest broadcaster Television Broadcasts Limited (TVB) declined to broadcast the Oscars ceremony for the first time since 1969. The decision came after Beijing ordered channels in the mainland not to broadcast the event due to the nomination of a documentary on Hong Kong's pro-democracy protests.

On 11 June, the Hong Kong SAR Government amended film censorship guidelines to give film censors new powers to remove films considered as national security threats.

## **Internet Freedom**

On 9 January, Hong Kong Police, for the first time, used the National Security Law to block a website. Internet Service Providers were required to block access to HK Chronicles, a website disclosing personal information of Hong Kong police officers.

On 4 June, a website run by a group of Hong Kong activists overseas, and hosted on an Israeli domain, was temporarily shut down after Hong Kong Police alleged that the site contained messages violating the NSL.

## **Privacy concerns**

In January, the Hong Kong SAR Government proposed real-name registration for local mobile phone pre-paid SIM cards. The Government argued that the change would help law enforcement agencies to identify or trace offenders. For urgent situations, involving serious offences, law enforcement agencies will be able to obtain user registration information without a court warrant. In June, after public consultation, the proposal was officially submitted to the legislature for scrutiny.

## **Concerns about Hong Kong expressed at the United Nations**

The 46<sup>th</sup> regular session of the United Nations Human Rights Council took place from 22 February to 24 March.

On 22 February, the then Foreign Secretary, the Rt. Hon. Dominic Raab, made a statement at the 46<sup>th</sup> session of the UN Human Rights Council in which he referred to the situation in Hong Kong:

“In Hong Kong, the rights of the people are being systematically violated. The National Security Law is a clear breach of the Sino-British Joint Declaration and is having a chilling effect on personal freedoms. Free and fair legislative elections must take place, with a range of opposition voices allowed to take part...We will continue to raise our voice for the people of Hong Kong...And we urge others who share our commitment to open societies and universal human rights to speak up.”

During the same session, UN High Commissioner for Human Rights Michelle Bachelet noted that “in the Hong Kong Special Administrative Region, more than 600 people are being investigated for participating in various forms of protests – some under the new National Security Law.”

On 26 February, Hong Kong’s Secretary for Justice Teresa Cheng stated during the session that “Hong Kong’s law and order is restored” and that it “has reverted to a safe, rational, inclusive and vibrant society”.

On 26 March, the UK delivered a closing statement at the session, setting out its serious concerns on the deteriorating human rights situation in China, including the restrictions of personal freedoms in Hong Kong.

## **OTHER REPORTS**

On 14 January, the US Congressional-Executive Commission on China (CECC) in its annual report described 'One Country, Two Systems' as "effectively dismantled". The report noted that the rule of law and respect for human rights that Hong Kong had long enjoyed were severely undermined, and that the National Security Law had been designed to "target, intimidate and silence Hong Kong's robust civil society".

On 3 February, the Economist Intelligence Unit's (EIU) annual Democracy Index for 2020 ranked Hong Kong 87<sup>th</sup>, a fall of 12 places. Hong Kong's status was also downgraded from "flawed democracy" to "hybrid regime". The EIU noted that the NSL "curtails Hong Kong's political freedoms and undermines its judicial independence".

On 3 March, Freedom House's 2021 Freedom in the World report scored Hong Kong 52 out of 100 and as "partly free", marking a decrease of three points from 2020.

On 4 March, the US Heritage Foundation released its annual Economic Freedom Index, which graded Hong Kong as part of the mainland China section for the first time. Hong Kong was ranked 107<sup>th</sup> as part of mainland China, "a mostly unfree economy" according to the Index. When explaining the decision, the Foundation noted that recent developments have demonstrated Hong Kong's economic policies are "ultimately controlled from Beijing".

On 12 March, the European Union published its annual report on Hong Kong's political and economic developments, which noted Hong Kong's "alarming political deterioration" in 2020. The EU High Representative for Foreign Affairs and Security Policy, Josep Borrell, said, "The National Security Law imposed by Beijing is being used to crack down on pro-democracy forces, stifle dissent and pluralism, and erode fundamental freedoms...China is consciously dismantling the 'One Country, Two Systems' principle in violation of its international commitments and the Hong Kong Basic Law".

On 21 March, the Reporters Without Borders 2021 World Freedom Index maintained Hong Kong's ranking of 80<sup>th</sup> out of 180 countries and territories. Reporters Without Borders noted that "The National Security Law imposed by Beijing seriously threatens journalists".

On 30 March, the US Department of State 2020 Country Report on Human Rights Practices in China (including Hong Kong) highlighted a number of human rights issues. These included: the establishment of national security organs with sweeping powers



and negligible public oversight; allegations of police brutality against protesters and persons in custody; arbitrary arrests; politically motivated reprisals against individuals located outside of Hong Kong; serious restrictions on free expression, the press, and the internet; substantial interference with the rights of peaceful assembly and freedom of association, and use of politically motivated arrests and prosecutions to impose restrictions on departing Hong Kong.

On 31 March, the US State Department reported to Congress, as required by the US Hong Kong Policy Act. The US Secretary of State, Antony Blinken, said, “The People's Republic of China has continued to dismantle Hong Kong's high degree of autonomy, in violation of its obligations under the Sino-British Joint Declaration and Hong Kong's Basic Law”. He further stated that, “The PRC Government's adoption and the Hong Kong Government's implementation of the National Security Law have severely undermined the rights and freedoms of people in Hong Kong”. Blinken also certified Hong Kong does not warrant differential treatment to China under US laws in the same manner as before 1 July 1997.

On 7 April, Amnesty International’s annual report on Hong Kong noted that human rights were “greatly stifled” under the National Security Law. It stated that “the chilling effect of the [security law] on Hong Kong civil society has been rapid and deeply disturbing”. It further noted that “Governments should not use ‘national security’ as an excuse to deny people their human rights as protected by international law and standards”.

In June, Human Rights Watch released a report titled “Dismantling a Free Society”. This noted that the National Security Law had “erased” Hong Kong’s basic rights and freedoms, stating that “Beijing has sought to decapitate Hong Kong’s pro-democracy movement”.

## **UK/HONG KONG BILATERAL RELATIONS**

### **British Nationals (Overseas)**

On 31 January 2021, the UK Government launched the Hong Kong British National (Overseas) (BN(O)) visa. It provides a route for BN(O) status holders and their eligible family members to live, work and study in the UK for up to five years. They will then be eligible to apply for permanent settlement and, in turn, British citizenship.

On 4 March, the UK Home Office updated its immigration rules, allowing BN(O) visa holders and their eligible family members to claim public funds on a case-by-case basis in cases of destitution.

On 8 April, the UK Ministry for Housing, Communities and Local Government (MHCLG) introduced a £43m Welcome Programme to help BN(O)s and their dependents settle in the UK. The programme provides support with housing, employment and education. On the same day, MHCLG published a Welcome Pack for BN(O) arrivals and a set of new guidelines to facilitate BN(O) visa applicants.

As of 30 June, approximately 64,900 BN(O) status holders and their eligible family members had applied for the BN(O) visa, and approximately 47,300 visas had been granted.

On the announcement of the figures, the Home Secretary, the Rt. Hon. Priti Patel MP, said the new visa route underlines that the UK will “stand up for liberty and freedom and honour our promises.”

On 10 June, MHCLG opened applications for social housing and homelessness assistance under the Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) Regulations 2021.

#### Refusal to recognise BN(O) passports or visa documents

On 29 January, the mainland Chinese and Hong Kong SAR Governments announced that from 31 January, they would stop recognising BN(O) passports as valid documents for travel or identification purposes. This is counter to the Memorandum of the Joint Declaration, under which China agreed to recognise these travel documents. This decision prevents the BN(O) passport from being used for entry or exit from Hong Kong, mainland China, or Macau.

On 25 March, the Hong Kong Government confirmed it had asked 14 countries to stop accepting BN(O) passports for working holiday visa applications.

In response, a FCDO spokesperson said:

“The Hong Kong government has no authority to dictate which passports foreign governments recognise as valid. The UK will continue to issue British National (Overseas) passports which remain valid travel documents”.

On 10 March, the Hong Kong Mandatory Provident Funds (MPF) Schemes Authority announced that “scheme members cannot rely on BN(O) passport or its associated visa as evidence in support of an application for early withdrawal of MPF.” As such, holders of BN(O) passports are unable to withdraw their mandatory pension savings using the BN(O) passport as identification, or use a BN(O) visa to demonstrate a permanent move abroad.

## **Consular assistance to dual nationals**

On 8 February, the UK Government updated its Travel Advice to British nationals planning to travel to Hong Kong, noting that:

“The British Consulate-General has been informed that Hong Kong, like other parts of China, does not recognise dual nationality. If you have both British and Chinese nationality you may be treated as a Chinese citizen by local authorities, even if you enter Hong Kong on your British passport. If this is the case, the British Consulate-General may not be able to offer you consular assistance.”

On 9 February, Chief Executive Carrie Lam confirmed that dual nationals are not eligible for foreign consular assistance or protection in Hong Kong. She noted that the denial of consular assistance to people with dual nationality has always been a rule in Hong Kong, and that the Hong Kong SAR Government “is strictly enforcing the policy of not recognising dual nationality”.

In response, a FCDO spokesperson said:

“It is wrong that Hong Kong authorities are withdrawing our consular access to British dual nationals in prison and preventing us providing support we’ve given since 1997. Alongside international partners we urge the authorities to restore access to our nationals immediately.”

## **Visits**

Due to the ongoing Covid-19 pandemic, there have been no high-level bilateral visits during the reporting period.

## **Trade and investment**

The UK and Hong Kong remain important trading partners. Against a difficult global context given the Covid-19 pandemic, the UK exported a total of £11.5 billion in the four quarters to the end of March 2021, a 12.7% decrease compared with the previous year. UK imports from Hong Kong increased by 7.5% to £10.1 billion over the same timeframe. Hong Kong was the UK’s 12<sup>th</sup> largest trading partner globally.

## **Culture**

In March, over 100 education experts from Hong Kong and the UK joined the online Hong Kong Jockey Club British Council “Core Skills for Life” teachers’ sharing forum on teaching and learning during Covid-19. The Core Skills for Life programme

champions 21st century skills such as communication and collaboration, creativity and imagination, critical thinking and problem solving. 115 Hong Kong primary school teachers have been trained in the last three years, with around 11,500 local students benefiting overall.

The four-day British Council Cultural Skills programme took place online in May on the theme of UK Children’s Theatre. The British Council also ran multiple virtual education fairs, open days and roadshows, promoting UK higher education.

## **CONCLUSION**

Hong Kong’s high degree of autonomy and rights and freedoms are set down in the Sino-British Joint Declaration, along with a commitment that Hong Kong’s social and economic systems will remain unchanged for 50 years from 1997. Interventions by the mainland Chinese authorities have undermined this high degree of autonomy and reduced further the space for the people of Hong Kong to exercise their rights and freedoms. Just over a year since the imposition of the National Security Law, the damage that this far-reaching law is doing to the way of life of the people of Hong Kong is clear. It is vital that the Hong Kong and mainland Chinese authorities return to the framework for Hong Kong set out in the Sino-British Joint Declaration, and which China promised to uphold for at least 50 years from 1997.

The UK will continue to stand up for the people of Hong Kong and to honour its responsibilities as co-signatory to this legally binding agreement. Alongside our international partners, the UK will continue to lead efforts to hold the Chinese Government to its legally binding commitments to Hong Kong. China freely entered into the Sino-British Joint Declaration and thereby guaranteed to uphold Hong Kong’s high degree of autonomy and its rights and freedoms until at least 2047. We call on China to honour that guarantee.

## **LIST OF ABBREVIATIONS**

BN(O)	British National (Overseas)
CGLO	Central Government Liaison Office
CAPO	Complaints Against the Police Office
CECC	Congressional-Executive Commission on China
CFA	Court of Final Appeal
CPPCC	Chinese People’s Political Consultative Conference
ESRC	Economic and Security Review Commission
ERO	Emergency Regulations Ordinance
FCC	Foreign Correspondents’ Club

HKBA	Hong Kong Bar Association
HKETCO	Hong Kong Economic, Trade and Cultural Office
HKJA	Hong Kong Journalists Association
HKMAO	Hong Kong and Macau Affairs Office
HKPORI	Hong Kong Public Opinion Research Institute
HKSAR	Hong Kong Special Administrative Region
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IPCC	Independent Police Complaints Council
MLA	Mutual Legal Assistance
MPF	Mandatory Provident Funds
NPC	National People's Congress
NPCSC	National People's Congress Standing Committee
NRTA	National Radio and Television Administration
NSL	National Security Law
PRC	People's Republic of China
RTHK	Radio Television Hong Kong
SAR	Special Administrative Region
TECO	Taipei Economic and Cultural Office
TVB	Television Broadcasts Limited
UN	United Nations
XRL	Express Rail Link