



**THE SIX-MONTHLY REPORT ON HONG KONG
1 JULY TO 31 DECEMBER 2020**

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

10 JUNE 2021

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FOREWORD

This is the 48th 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 July to 31 December 2020, this Foreword also addresses subsequent events.

This period has been defined by a pattern of behaviour by Beijing intended to crush dissent and suppress the expression of alternative political views in Hong Kong. China has broken its legal obligations by undermining Hong Kong’s high degree of autonomy, rights and freedoms, which are guaranteed under the Joint Declaration.

We have seen three clear breaches of the Joint Declaration in the last year (two breaches during the July-December reporting period and one which has happened since then). We have therefore now declared China to be in a state of ongoing non-compliance with the Joint Declaration.

The National Security Law is not being used for its original purpose, as stated by Beijing, to target just “a tiny number of criminals who seriously endanger national security”. Rather it has been used to drastically curtail the space for the expression of alternative political views and deter freedom of expression and legitimate political debate.

We are now seeing the effects of a law with loosely defined provisions, backed up with the threat of potentially long jail sentences and transfer of cases to mainland China for prosecution and sentencing.

The law is being used to stifle political opposition, as we saw in the arrests of 55 pro-democracy politicians and activists for their alleged roles in the Legislative Council primaries. 47 went on to be prosecuted, with their trials ongoing. Confidence in the rule of law will be undermined if there are further politicised prosecution decisions.

The Chinese National People’s Congress (NPC) acted unilaterally in its decision on electoral changes, without prior consent from Hong Kong’s Legislative Council. The NPC’s decision provides the means for greater control of candidates standing for elected offices and removal of elected politicians. It 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.

Scrutiny of the Hong Kong authorities by elected legislators, the media, and citizens has been curtailed by the extension of the current Legislative Council term, the disqualification and subsequent resignation of the pan-democratic legislators from the Legislative Council, and the negative effect of the National Security Law on media freedom and freedom of speech.

This situation has been, and remains, deeply concerning for the UK and other members of the international community. The UK has stood up for its values and for the people of Hong Kong. In January, we launched a new immigration route for British Nationals (Overseas) providing many of those that feel they need to leave with another option for doing so. We also took a number of further steps during the

reporting period, including suspending indefinitely our Extradition Treaty with Hong Kong and extending our arms embargo on mainland China to cover Hong Kong.

We have called out China's egregious actions, alongside international partners, through joint statements such as those at the UN Human Rights Council and, most recently, the UK-led G7 statement condemning the NPC's unilateral decision to change Hong Kong's electoral procedures.

We must continue to stand up for the rights and freedoms of the people of Hong Kong. I give my assurance, as Foreign Secretary, that we will continue to hold China to its obligations to safeguard the way of life of the people of Hong Kong, as is guaranteed by the Joint Declaration.

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 Hong Kong’s National Security Law (NSL) come into force, following its imposition by Beijing on 30 June 2020. In July, 12 pan-democratic candidates were banned from participating in the 6 September 2020 Legislative Council elections, which the Hong Kong SAR Government later postponed for at least a year, citing Covid-19 as the justification. In November, the Standing Committee of China’s National People’s Congress (NPC) announced new rules to remove Hong Kong’s elected legislators. Four pan-democratic incumbents were immediately disqualified, prompting the mass resignation of most of the remaining pan-democratic legislators from the Legislative Council. More widely, pressure on pro-democracy legislators and activists increased, with a large number arrested during the reporting period under both NSL and other charges.

Freedom of speech was curtailed significantly during the reporting period. The Hong Kong authorities arrested and charged, under the NSL, the founder of one of Hong Kong’s largest newspapers, who is also a leading pro-democracy figure. A number of university students were arrested under the NSL for allegedly displaying political banners and chanting slogans. Books by some pro-democracy activists and political figures were removed from libraries. The Hong Kong SAR Government indicated its intention to reform the education curriculum and introduce national security education into classrooms.

Overall, the mainland Chinese and Hong Kong authorities reduced significantly the space for the people of Hong Kong to exercise their rights and freedoms. The UK declared two breaches of the Joint Declaration by China over the reporting period. The Foreign Secretary declared a breach on 1 July 2020 following the imposition of the NSL. This violates Hong Kong’s high degree of autonomy and independent judicial authority as provided for in the Joint Declaration, and has been used to undermine the rights and freedoms in the Joint Declaration. The Foreign Secretary declared a further breach on 12 November 2020 following the introduction of new rules for disqualifying elected legislators. This breached China’s commitment that Hong Kong will enjoy a

high degree of autonomy and the right to freedom of speech, both guaranteed in the Joint Declaration.

The UK Government responded to the introduction of the NSL with a series of reasonable and proportionate measures, which reflect our vital interests and our long-standing commitment to the people of Hong Kong. We immediately and indefinitely suspended the UK's Extradition Treaty with Hong Kong, extended the UK arms embargo on mainland China to cover Hong Kong, and created a new, bespoke immigration route for British Nationals (Overseas) and their dependants.

TIMELINE OF SIGNIFICANT DEVELOPMENTS

- **30 June** – The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong SAR (National Security Law) comes into effect.
- **01 July** – During protests against the National Security Law (NSL), police arrest 370 protestors, including ten under the NSL. UK declares the NSL to be a breach of the Sino-British Joint Declaration, and announces a new immigration route for British Nationals (Overseas) (BN(O)s).
- **11-12 July** – Hong Kong's pan-democratic parties hold unofficial Legislative Council election primaries.
- **20 July** – UK Foreign Secretary announces in Parliament the extension of the arms embargo on mainland China to cover Hong Kong and the indefinite suspension of the UK-Hong Kong Extradition Treaty.
- **22 July** – UK Home Secretary announces in Parliament details of the new BN(O) immigration scheme.
- **28 July** – Hong Kong SAR Government suspends its bilateral treaties with the UK, Canada and Australia on Mutual Legal Assistance in Criminal Matters (MLA).
- **29 July** – First NSL arrests for social media posts.
- **30 July** – 12 pro-democratic candidates disqualified from the upcoming Legislative Council elections.
- **31 July** – Chief Executive Carrie Lam Yuet-ngor delays the Legislative Council elections using emergency powers, citing the Covid-19 pandemic.
- **10 August** – Jimmy Lai Chee-ying, founder of Hong Kong newspaper Apple Daily, arrested under the NSL.
- **11 August** – National People's Congress Standing Committee (NPCSC) extends the existing Legislative Council's term for no less than one year.

- **23 August** – Guangdong coastguard arrests 12 Hong Kongers caught leaving Hong Kong by boat.
- **22 October** – UK confirms that the new visa route for BN(O)s and their dependants will open on 31 January 2021.
- **01 November** – Seven pan-democratic legislators arrested for disrupting a Legislative Council meeting in May 2020.
- **11 November** – NPCSC introduces new criteria for the disqualification of Hong Kong’s legislators. UK declares another breach of the Joint Declaration. Four pan-democratic legislators are disqualified immediately and others resign en-masse.
- **19 November** – The High Court rules that the existing police complaints mechanism (which the Hong Kong SAR Government argued could sufficiently address police actions during the 2019 protests without needing a commission of inquiry) is “inadequate”.
- **02 December** – Three leading Hong Kong pro-democracy activists sentenced to prison under non-NSL charges for their role in the 2019 anti-extradition protests.

SIGNIFICANT POLITICAL DEVELOPMENTS

The implementation of the National Security Law (NSL) had a significant impact on Hong Kong’s political landscape. It generated considerable uncertainty about what acts or speech would be considered illegal. The reporting period saw a large number of arrests, charges and other targeted moves against pro-democracy politicians and activists, including the first charges under the NSL.

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

Introduction of the National Security Law (NSL), protests and local reactions

Beijing’s imposition of a new National Security Law on Hong Kong was covered in the last Six-monthly Report. The law took effect on 30 June 2020.

A number of political and civil society organisations, including “Demosisto”, announced they would disband immediately.

On 1 July, there were widespread protests against the law, with multiple acts of violence and vandalism. Thousands of protesters blocked roads, damaged shops and clashed with police, who responded with tear gas, rubber bullets and water cannons. One police officer was stabbed in the arm. Separately, a man was arrested under the NSL for riding a motorbike into police officers; he was subsequently the first person to

be charged under the NSL. Another protester was arrested under the NSL for carrying a flag supporting Hong Kong independence.

From 1 July, police began to deploy purple flags at protests, warning that people's actions may contravene the NSL. On 2 July, the Hong Kong SAR Government issued a press release declaring that the slogan "Liberate Hong Kong, Revolution of our Times" was akin to subverting state power and urged people not to defy the law. On 4 July, public libraries removed certain books by pro-democracy activists and political figures in response to this instruction.

New national security governance structures were created in accordance with the National Security Law. Mainland Chinese official Zheng Yanxiong was appointed as Director of The Office for Safeguarding National Security of the Central People's Government in the Hong Kong SAR. A new Committee for Safeguarding National Security of the Hong Kong SAR, chaired by Chief Executive Carrie Lam, was established, and held its first meeting on 6 July. Luo Huining, already Director of the Central Government Liaison Office (CGLO), was appointed as National Security Adviser to the new committee. The Hong Kong Police Force created a new National Security Department, led by Deputy Commissioner of Police Edwina Lau Chi-wai.

On 5 November, the Hong Kong Police Force launched a national security hotline for people to report suspected national security crimes.

Implementation of the National Security Law (NSL) and arrests

Overall, 40 people were arrested under the NSL during the reporting period, according to local media reports. Notable examples include:

- **10 August:** Activists Agnes Chow Ting, Wilson Li Chung-chak and Andy Li Tsz-yin were arrested for allegedly colluding with foreign forces.
- **20 November:** An online radio host, his wife and assistant were arrested for funding secessionist activities, after allegedly crowdfunding money for young Hong Kongers to study in Taiwan.
- **07 December:** Three students were arrested for inciting secession, after they were accused of chanting slogans and waving pro-independence flags at a graduation ceremony.

During the reporting period, four of those arrested under the NSL were charged with national security offences. Their trials are ongoing. They are:

1. Tong Ying-kit, arrested for allegedly riding a motorbike into a group of police officers during the 1 July protest. He was charged with inciting secession and engaging in terrorist activities.
2. Tong Chung Hon-lam, a 19-year-old former member of a disbanded pro-independence organisation, arrested for inciting secession on 29 July for messages he had allegedly posted on social media.
3. Adam Ma Chung-man, arrested on 22 November for allegedly chanting the slogan "Liberate Hong Kong, Revolution of our Times" publicly on various occasions, and charged with incitement to commit secession.

4. Jimmy Lai Chee-ying, arrested on 10 August and later charged with colluding with foreign forces, reportedly for alleged comments he made in the media and on social media. Further details of his case are given in the next section.

UK response to the National Security Law (NSL)

As covered in the previous Six-monthly Report, the Foreign Secretary made a statement to Parliament on 1 July outlining why the new law breached the Sino-British Joint Declaration and announcing a new immigration pathway for those holding British National (Overseas) status and their dependants.

Extension of the arms embargo and suspension of the Extradition Treaty

On 20 July, the Foreign Secretary made a further statement to Parliament that declared the UK would extend its arms embargo that applies to mainland China to Hong Kong. In the same statement, the Foreign Secretary announced the immediate and indefinite suspension of the UK's Extradition Treaty with Hong Kong.¹

Extract from the Foreign Secretary's statement to Parliament, 20 July 2020

"Today we are taking two further measures, which are a necessary and proportionate response to this new national security legislation, which we have now had the opportunity to assess very carefully.

"First, given the role China has now assumed for the internal security of Hong Kong, and the authority it is exerting over law enforcement, the UK will extend to Hong Kong the arms embargo that we have applied to mainland China since 1989. To be clear the extension of this embargo mean there will be no exports from the UK to Hong Kong, of potentially lethal weapons, their components or ammunition. It will also mean a ban on the export of any equipment not already banned, which might be used for internal repression, such as shackles, intercept equipment, firearms and smoke grenades.

"Mr Speaker, the second measure relates to the fact that the imposition of the National Security Law has significantly changed key assumptions underpinning our extradition treaty arrangements with Hong Kong. And I have to say that I am particularly concerned about Articles 55 to 59 of the law, which gives mainland Chinese authorities the ability to assume jurisdiction over certain cases and try those cases in mainland Chinese courts.

"Mr Speaker, the National Security Law does not provide legal or judicial safeguards in such cases, and I am also concerned about the potential reach of the extra-territorial provisions. So I have consulted with the Home Secretary, the Justice Secretary and the Attorney General, and the government has decided to

¹ <https://www.gov.uk/government/speeches/hong-kong-and-china-foreign-secretarys-statement-in-parliament>

suspend the extradition treaty immediately and indefinitely. And I should also tell the House that we would not consider re-activating those arrangements, unless, and until clear and robust safeguards which are able to prevent extradition from the UK being misused under the national security legislation.”

On 28 July, the Hong Kong SAR Government, on instruction from the Chinese Government, suspended its bilateral treaties on Mutual Legal Assistance in Criminal Matters (MLA) with the UK, Canada and Australia. The Hong Kong SAR Government stated this was in direct response to the UK’s decision to suspend the Extradition Treaty with Hong Kong over concerns about the provisions of the National Security Law. A Hong Kong SAR Government spokesperson accused the UK and other countries of “using the enactment of the National Security Law in Hong Kong as an excuse”. Hong Kong subsequently suspended Mutual Legal Assistance provisions with other countries that had suspended extradition treaties, including the US, Germany, France, Finland, Ireland, the Netherlands and New Zealand.

British Nationals (Overseas)

On 22 October, the UK Government published further details of the new Hong Kong BN(O) visa, which would open for application from 31 January 2021.²

The changes permit holders of British National (Overseas) status to move to the UK to study and work. They now have the right to work in almost any role, consistent with UK employment laws and subject to having the appropriate skills and qualifications. All those with BN(O) status are eligible, as well as their immediate dependants, provided they are usually resident in Hong Kong. The new scheme does not include a quota on numbers. The visa route also provides a pathway to British citizenship. After five years in the UK, BN(O) status holders and their family dependants will be able to apply for settlement. After a further twelve months, they will be eligible to apply for full citizenship.

The policy impact assessment³ estimates there are 2.9 million BN(O) status holders eligible to apply for the visa, with a further estimated 2.3 million eligible dependants. It also estimates between 123,000 and 153,700 BN(O) status holders and their dependants will come to the UK in the first year and between 258,000 and 322,400 over five years.

The Home Secretary set out further details in her statement to Parliament on 22 July⁴:

² <https://www.gov.uk/government/news/government-delivers-on-commitment-to-british-nationals-overseas-in-hong-kong>

³ <https://www.legislation.gov.uk/ukxi/2020/1147/impacts/2020/70>

⁴ <https://www.gov.uk/government/publications/hong-kong-bno-visa-policy-statement/hong-kong-british-national-overseas-visa-policy-statement-plain-text-version>

Extracts of foreword of the Home Secretary’s policy statement to Parliament on Hong Kong BN(O) visa policy, 22 July 2020

“The decision of the Chinese Government to impose its national security legislation on Hong Kong is a matter of deep regret to this Government. This legislation and its strict implementation constitutes a clear breach of the 1984 Sino-British Joint Declaration, undermining the “One Country, Two Systems” framework. It cannot be ignored.

“Now that China, through its actions, has changed the circumstances that BN(O) citizens find themselves in, it is right that we should change the entitlements which are attached to BN(O) status. I have decided to significantly improve those entitlements, to reassure BN(O) citizens that they have options to live in the UK if they decide that is an appropriate choice for them.

“BN(O) citizens in Hong Kong are in a unique position, which is why I have designed a policy which is specific to them in the wider immigration system. It will not set a precedent. It is a proportionate response to the situation which has arisen. The UK is entitled to decide on the rights attaching to BN(O) status which it has previously conferred and that is what I am doing with these changes.

“My offer to BN(O) citizens is a very generous one. I am not imposing skills tests or minimum income requirements, economic needs tests or caps on numbers. I am giving them the opportunity to acquire full British citizenship. They do not need to have a job before coming to the UK - they can look for work once here. They may bring their immediate dependents, including non-BN(O) citizens.

“We are planning to open the Hong Kong BN(O) Visa for applications from January 2021. BN(O) citizens do not need to hold a BN(O) passport in order to apply for the visa – so there is no need for them to apply for, or renew, a BN(O) passport specifically for this purpose. All BN(O) citizens will need a visa to be able to settle in the UK.”

The Home Secretary released a further statement on 22 July:

“The UK has a strong historic relationship with the people of Hong Kong and we are keeping our promise to them to uphold their freedoms.

BN(O) citizens will now have a choice to come and live, work and study in the UK, building a new life for them and their family.

We look forward to welcoming BN(O) citizens to the UK.”

US sanctions and other measures

On 2 July, in response to the National Security Law, the US Congress passed the Hong Kong Autonomy Act, requiring sanctions on “foreign individuals and entities that

materially contribute to China's failure to preserve Hong Kong's autonomy", as well as any foreign institutions which knowingly conduct transactions with the named individuals and entities.

On 14 July, then US President Donald Trump signed the Act, as well as an "Executive Order on Hong Kong normalization" with additional powers to freeze the US assets of anyone involved in developing or implementing the National Security Law, undermining democratic processes, threatening peace and stability, restricting freedom of expression or assembly, or committing serious human rights abuses in Hong Kong. The Executive Order also ended the preferential economic treatment for Hong Kong established under the US Hong Kong Policy Act of 1992.

On 7 August, the US imposed sanctions on 11 individuals, including Chief Executive Carrie Lam, Central Government Liaison Office Director Luo Huining, Hong Kong and Macao Affairs Office Deputy Director Zhang Xiaoming, Security Secretary John Lee Ka-chiu, Justice Secretary Teresa Cheng Yeuk-wah and Police Commissioner Chris Tang Ping-keung, for undermining Hong Kong's autonomy and restricting freedom of expression or assembly.

On 11 August, the US Department of Homeland Security requested all products produced in Hong Kong to be labelled "Made in China".

On 10 November, the US extended sanctions to four more Hong Kong and mainland officials for their roles in developing the NSL, and on 7 December listed a further 14 Chinese officials from the NPCSC.

On 12 December, the US Treasury reported that it had not, to that date, identified any foreign financial institutions that conducted significant transactions with sanctioned individuals. It said that the US Treasury would continue to monitor any activity and update this report on an ongoing basis.

Other international responses to the National Security Law (NSL)

As covered in the previous Report, on 28 May, the Foreign Secretary released a joint statement alongside the Foreign Ministers of Australia and Canada, and the US Secretary of State to reiterate deep concern regarding Beijing's decision to impose the NSL.

On 17 June, the Foreign Secretary issued a joint statement with his G7 counterparts in the US, Canada, France, Germany, Italy, Japan, and the High Representative of the EU to stress the international community's "grave concern" regarding Beijing's decision.

On 28 July, the Council of the European Union also expressed "grave concern" about the NSL and noted that it was "not in conformity with China's international commitments under the Sino-British Joint Declaration". As a result, Germany, the Netherlands, Ireland and Finland suspended their extradition treaties with Hong Kong, and France decided not to ratify a pending extradition agreement. The US, Canada, Australia and New Zealand also all suspended their extradition treaties.

Australia and Canada announced changes to existing visas, which allowed recent graduates to apply for work visas, with future pathways to permanent residency.

On 2 July, a cross-party group of 904 parliamentarians and policymakers from 43 countries or territories, led by the former Governor of Hong Kong, Lord Patten, and the former UK Foreign Secretary, Sir Malcolm Rifkind, issued a statement calling Beijing's introduction of the NSL a "flagrant breach of the Sino-British Joint Declaration".

A number of international technology companies, including Google, Twitter and Facebook, announced that they would pause sharing of data with the Hong Kong authorities as a result of the law, with Facebook saying it would stop considering sharing requests "pending further assessment" of the human rights issues. The New York Times announced plans to move its digital operation from Hong Kong to Seoul, due to the uncertainty caused by the NSL.

Arrest of Jimmy Lai Chee-ying, founder of Apple Daily

Jimmy Lai Chee-ying is the founder and (now former) owner of Next Digital, and Apple Daily, a Hong Kong newspaper. Lai and Apple Daily have frequently publicly criticised the Hong Kong SAR and Chinese Governments. On 10 August, around 200 police officers raided the Apple Daily newsroom and Lai was arrested. On 2 December, police charged Lai with fraud for allegedly sub-letting illegally the company's headquarters.

On 11 December, Lai was additionally charged with collusion with foreign forces under the National Security Law. The Foreign Secretary made the following statement:

"The Hong Kong National Security Law breaches the internationally-binding Joint Declaration, and is now being used to charge Jimmy Lai. This highlights the authorities' continued attacks on the rights and freedoms of its people.

"We have raised this case with the authorities in Hong Kong and call on them to end their targeting of Lai and other pro-democracy voices."

On 23 December, the High Court approved Lai's bail application. The bail terms included a HK\$10 million bond, house arrest and regular reporting to the police. Lai was also barred from meeting any officials of a foreign government or engaging with media or social media. Chinese state media criticised the Court's decision to release Lai on bail. The Department of Justice then filed an urgent appeal against the bail decision to the Court of Final Appeal (CFA). On 31 December, the CFA determined that the lower Court may have made an error in interpreting the bail conditions of the National Security Law, and Lai was taken back into custody.

Non-NSL arrests of politicians and activists

There were multiple non-NSL arrests of pro-democracy political figures and activists during the reporting period. Examples include:

- **26 August:** Pro-democratic legislator Lam Cheuk-ting was arrested and charged with rioting in relation to a protest on 21 July 2019. He was also charged in December with disclosing the identity of a person under investigation for corruption, contrary to anti-bribery law.
- **06 September:** Activist Tam Tak-chi was arrested on suspicion of “uttering seditious words”.
- **24 September:** Joshua Wong Chi-fung was arrested and later charged with taking part in an unauthorised assembly on 5 October 2019 and for breaching the anti-mask law.
- **01 November:** Seven pan-democratic legislators were arrested for disrupting a Legislative Council House Committee meeting the previous May.

On 3 November, the UK Minister of State for Asia, Nigel Adams MP made the following statement:

“The latest arrests of activists and democratically elected lawmakers has all the hallmarks of being a politically driven, sustained attempt to stifle opposition by the Hong Kong government.

“The rights and freedoms of the Hong Kong people are enshrined in both the Joint Declaration and the Basic Law. We expect all arrests and judicial processes to be conducted in a fair and transparent manner.”

- **17 November:** Former Legislative Council members Ted Hui Chi-fung, Raymond Chan Chi-chuen and Eddie Chu Hoi-dick were arrested for disrupting Legislative Council meetings in May and June.
- **08 December:** Eight activists, including former Legislative Council members Eddie Chu Hoi-dick, Wu Chi-wai, and Leung Kwok-hung were arrested for organising and participating in an illegal assembly on 1 July.

Freezing of bank accounts

Former legislator Ted Hui Chi-fung (who faces a total of nine protest-related charges), arrived in the UK on 6 December after announcing his decision to go into exile. After arriving in the UK, Hui stated that his personal bank account and those of his family members had been frozen without any notice or explanation by HSBC, then unfrozen. On 7 December, the Hong Kong Police ordered HSBC to re-freeze the accounts as they began investigating Hui on suspicion of money laundering from a crowdfunding campaign, and of collusion with foreign forces under the National Security Law.

Arrest and detention of 12 Hong Kongers in mainland China (Shenzhen 12)

12 Hong Kongers aged between 16 and 33, including pro-democracy activists, were arrested on 23 August by the Guangdong Coast Guard for allegedly entering mainland Chinese waters illegally via speedboat, while trying to leave Hong Kong. The group were all facing prosecution in Hong Kong in connection with the 2019 protests. Additionally, activist Andy Li Yu-hin had been arrested under the National Security

Law on 10 August for colluding with foreign forces. On 8 September, Chief Executive Carrie Lam said that, having been arrested in the mainland, the 12 detainees would have to be dealt with according to mainland laws. On 1 December, 155 parliamentarians from 18 countries published an open letter to Carrie Lam, expressing concerns about the ongoing detention of the activists and urging her to raise their cases with the authorities in Beijing.

On 28 December, following their trial in Shenzhen that day, the Foreign Secretary made the following statement:

“We are deeply concerned that members of the Shenzhen 12 were tried in secret today, having been given just three days’ notice of their trial. Diplomats from Britain and a number of other countries, tried to attend the court proceedings but were denied entry.

“The Shenzhen 12 have not had access to lawyers of their choosing, raising further serious questions about access to legal counsel in Mainland China. We expect China to uphold the rule of law and conduct trials in a fair and transparent manner, consistent with the basic requirements of international human rights law.”

On 30 December, defendants Tang Kai-yin and Quinn Moon were sentenced to three and two years in jail respectively for their roles in organising the border crossing. They are serving their jail sentences in mainland China. Eight others received seven-month jail terms for illegally crossing the border. Two minors were not charged and were transferred to the custody of the Hong Kong police.

Chief Executive’s Policy Address

On 25 November, Chief Executive Carrie Lam delivered her annual Policy Address. She said that the Government would focus on tackling the pandemic, reviving the economy, restoring social order, rebuilding Hong Kong’s international reputation and restoring people’s confidence in the Government. Lam said that society’s inadequate understanding of the Constitution and Basic Law, combined with manipulation by external forces, was responsible for Hong Kong’s political divisions and unrest. Lam said the Government would introduce legislation to “enhance the electoral system and arrangements”. She also set out plans to introduce oath-taking legislation for public officers and to reform the education curriculum.

As noted in previous Reports, following the mass protests in 2019 the Hong Kong SAR Government made some initial attempts towards dialogue with the people of Hong Kong. However, this has since been abandoned, with the apparent focus now on retribution against political opposition and silencing of dissent, including through imposition of measures by the Standing Committee of the National People’s Congress.

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

The National Security Law constitutes a clear and serious breach of the Joint Declaration. It violates Hong Kong's promised high degree of autonomy, and contains measures which are now being used to undermine the rights and freedoms set out in the Joint Declaration and Basic Law. National security is being used as a pretext to silence peaceful opposition.

CONSTITUTION AND 'ONE COUNTRY, TWO SYSTEMS'

This proved yet another difficult and controversial period for Hong Kong's relationship with mainland China and for 'One Country, Two Systems'. Pro-democracy candidates were disqualified from participating in the September 2020 Legislative Council elections. The Chinese and Hong Kong SAR Governments introduced new rules to exclude pro-democracy candidates on the basis of national security, resulting in the disqualification of incumbent legislators. Beijing's efforts to enforce "patriotism" were extended further, with oath-taking introduced as a requirement for civil servants. Furthermore, the Hong Kong SAR Government postponed the September 2020 Legislative Council elections for at least a year, citing Covid-19 restrictions as the justification.

Pan-democratic primary elections

On 9 June, Hong Kong's pan-democratic parties announced plans to hold unofficial primary elections to select candidates for the September Legislative Council elections. Some, but not all, candidates professed their support for a plan put forward by activist Benny Tai Yiu-ting, one of the organisers of the primaries. This plan advocated gaining a pro-democracy majority in the Legislative Council and using it to vote down the Government budget repeatedly, forcing the Chief Executive to resign and ultimately prompting retaliation from the Chinese authorities and international sanctions.

On 9 July, Secretary for Mainland and Constitutional Affairs Eric Tsang Kwok-wai warned that participation in the primary elections may violate the National Security Law.

The evening before the polls were due to take place, police raided the office of Hong Kong Public Opinion Research Institute (HKPORI), the organisation responsible for collecting the polling data. Police seized computers, explaining they were doing so in relation to an alleged data leak from a HKPORI project seven years earlier.

The primaries went ahead on 11 and 12 July, with a reported turnout of over 600,000. The Hong Kong SAR Government stated that it had received numerous complaints that the unofficial polls could have interfered with the elections, broken social distancing rules, breached data protection laws and that the organisers could be guilty of subversion under the National Security Law.

Disqualification of pro-democracy candidates from the Legislative Council elections

On 26 July, Hong Kong SAR Government Electoral Officers sent letters to a number of pro-democracy candidates asking for their opinions on the National Security Law, US sanctions and other key political issues. Subsequently, on 30 July, Returning Officers disqualified 12 pro-democracy candidates, including four incumbent legislators, from running in the upcoming September Legislative Council elections. The Returning Officers alleged that the candidates were violating the requirement of the statutory nomination procedures to uphold the Basic Law and pledge allegiance to the Hong Kong SAR.

On 30 July, the Hong Kong SAR Government issued a press release, which set out five behaviours that would indicate that a candidate could not uphold the Basic Law and, therefore, lead to them being prevented from becoming a member of the Legislative Council:

1. Advocating or promoting Hong Kong independence, self-determination or changing the system of the Hong Kong SAR by supporting Hong Kong independence as an option for self-determination;
2. Soliciting intervention by foreign governments or political authorities in relation to the Hong Kong SAR's affairs;
3. Expressing an objection in principle to the enactment of the National Security Law;
4. Refusal to recognise the People's Republic of China's exercise of sovereignty over the Hong Kong SAR and the Hong Kong SAR's constitutional status as a local administrative region of the People's Republic of China;
5. Expressing an intention to exercise the functions of a Legislative Council Member by indiscriminately voting down any legislative proposals, appointments, funding applications and budgets introduced by the Hong Kong SAR Government after securing a majority in the Legislative Council so as to force the Government to accede to certain political demands.

On 30 July, the Foreign Secretary made the following statement:

"I condemn the decision to disqualify opposition candidates from standing in Hong Kong's Legislative Council elections.

"It is clear they have been disqualified because of their political views, undermining the integrity of 'One Country, Two Systems' and the rights and freedoms guaranteed in the Joint Declaration and Hong Kong's Basic Law.

"The Hong Kong authorities must uphold their commitments to the people of Hong Kong."

Postponement of the Legislative Council elections

The four-year Legislative Council term was due to end on 30 September 2020, with elections due on 6 September 2020. On 31 July, the Hong Kong SAR Government announced that the upcoming Legislative Council elections would be delayed for one year, until 5 September 2021. This was done under emergency powers in the Emergency Regulations Ordinance (ERO), rather than under the Legislative Council Ordinance, which would have provided for a 14-day delay. The Hong Kong SAR Government said that the decision was due to the Covid-19 pandemic and to “protect public safety and public health as well as ensure elections are conducted openly and fairly”.

On 31 July, a UK Foreign and Commonwealth Office spokesperson issued the following statement:

“Free and fair elections are essential to the high degree of autonomy and rights and freedoms guaranteed in the Sino-British Joint Declaration.

“The Chinese government will need to reassure the people of Hong Kong and the world that elections will be held as soon as possible, and that they are not using COVID as a pretext to further undermine the autonomy of Hong Kong.”

On 3 August, the High Representative of the EU released a statement, which stated that the proposed postponement would “delay the renewal of its (the Legislative Council’s) democratic mandate and call into question the exercise of the democratic rights and freedoms guaranteed under Hong Kong’s Basic Law”. The statement also commented on the disqualification of pan-democratic candidates from the Legislative Council elections.⁵

On 9 August, the Foreign Ministers of Australia, Canada, New Zealand, the UK, and the US Secretary of State released a joint statement:

“We the Foreign Ministers of Australia, Canada, New Zealand, the United Kingdom, and the United States Secretary of State are gravely concerned by the Hong Kong government’s unjust disqualification of candidates and disproportionate postponement of Legislative Council elections. These moves have undermined the democratic process that has been fundamental to Hong Kong’s stability and prosperity.

“We express deep concern at Beijing’s imposition of the new National Security Law, which is eroding the Hong Kong people’s fundamental rights and liberties.

“We support the legitimate expectations of the people of Hong Kong to elect Legislative Council representatives via genuinely free, fair, and credible elections. We call on the Hong Kong government to reinstate the eligibility of disqualified

⁵ <https://www.consilium.europa.eu/en/press/press-releases/2020/08/03/declaration-of-the-high-representative-on-behalf-of-the-eu-on-the-postponement-of-the-legislative-council-elections-in-hong-kong/>

candidates so that the elections can take place in an environment conducive to the exercise of democratic rights and freedoms as enshrined in the Basic Law. Beijing promised autonomy and freedoms under the “One Country, Two Systems” principle to the Hong Kong people in the Sino-British Joint Declaration, a U.N.-registered treaty, and must honour its commitments. We urge the Hong Kong government to hold the elections as soon as possible.”

Extension of the Legislative Council term

Following the decision to postpone the elections, it was unclear whether the Legislative Council would disband or whether it could continue in its current format, with the existing legislators. The Hong Kong SAR Government sought advice from the Chinese National People’s Congress Standing Committee (NPCSC), in an apparently novel constitutional process.

By seeking a decision directly from the NPCSC, the Hong Kong SAR Government ruled out any challenge in the Hong Kong Courts to the decision to delay the elections. The Hong Kong Bar Association noted that the Hong Kong SAR Government was “effectively inviting the Central Government to override the relevant provisions of the Basic Law and Hong Kong legislation to circumvent possible legal challenges. This is contrary to the principles of legality and legal certainty and degrades the rule of law in Hong Kong.”

On 11 August, the NPCSC unanimously adopted a Decision whereby the current Legislative Council should continue for not less than one year, until the next Legislative Council could be formed.

The Hong Kong Public Opinion Research Institute (HKPORI) organised an unofficial public opinion poll, in which 47.1 per cent of 2,579 respondents voted for pan-democratic Legislative Council members to continue and 45.8 per cent voted to leave. Following this poll, the majority of the pan-democratic legislators decided to return to the Legislative Council on 29 September. Two pan-democratic legislators, Raymond Chan Chi-cheun and Eddie Chu Hoi-dick, announced their intention to resign.

National People’s Congress Standing Committee (NPCSC) introduce new rules for disqualifying Legislative Council members and candidates for election

On 11 November, the NPCSC passed a Decision that introduced new criteria for the disqualification of Legislative Council members and for removing existing Hong Kong legislators from office. The Decision stated that election candidates and Legislative Council members do not uphold the Basic Law, fail in their oath of allegiance to the Hong Kong SAR, and are immediately disqualified, if they:

1. Advocate or support Hong Kong independence;
2. Refuse to recognise the People’s Republic of China’s sovereignty or exercise of sovereignty over the Hong Kong SAR;
3. Solicit intervention by foreign or external forces in the Hong Kong SAR’s affairs;

4. Engage in other activities endangering national security.

These criteria echoed those created on 30 July by the Hong Kong SAR Government when disqualifying the 12 candidates from standing in the Legislative Council elections. The four incumbent Legislative Council members who had been disqualified from standing in the elections (Alvin Yeung Ngok-kiu, Dennis Kwok Wing-hang, Kenneth Leung Kai-cheong, and Kwok Ka-ki) had nevertheless been allowed to continue in their roles in the extended Legislative Council term. The Hong Kong SAR Government announced that, following the Decision by the NPCSC, and given the Returning Officers' determination that they might fail to uphold the Basic Law, they would be disqualified immediately. Chief Executive Carrie Lam said that the Hong Kong SAR Government had sought a Decision from the NPCSC to disqualify the Legislative Council members as it was untenable that the legislators be allowed to continue if they could not uphold the Basic Law. She said that the Hong Kong SAR Government had not been given the power to disqualify legislators and that the disqualifications had been made by the NPCSC itself.

In response, 15 of the remaining pan-democratic Legislative Council members resigned, leaving only two non-pro-Establishment legislators. 41 of the remaining 43 of the Legislative Council's 70 seats were occupied by pro-Establishment members. Democratic Party Chairperson, Wu Chi-wai said that the NPCSC Decision represented the end of 'One Country, Two Systems'.

On 11 November, the Foreign Secretary made the following statement:

"China's decision to arbitrarily remove elected pro-democracy Hong Kong legislators from their positions represents a further assault on Hong Kong's high degree of autonomy and freedoms under the UK-China Joint Declaration.

"This campaign to harass, stifle and disqualify democratic opposition tarnishes China's international reputation and undermines Hong Kong's long-term stability."

On 12 November, the Foreign Secretary made a further statement, declaring a formal breach of the Sino-British Joint Declaration:

"Beijing's imposition of new rules to disqualify elected legislators in Hong Kong constitutes a clear breach of the legally binding Sino-British Joint Declaration.

"China has once again broken its promises and undermined Hong Kong's high degree of autonomy. The UK will stand up for the people of Hong Kong, and call out violations of their rights and freedoms. With our international partners, we will hold China to the obligations it freely assumed under international law."

On 13 November, the FCDO Permanent Under-Secretary, Sir Philip Barton, summoned the Chinese Ambassador to the UK. A FCDO spokesperson statement said:

“Today the Chinese Ambassador was summoned to the Foreign, Commonwealth & Development Office. The Permanent Under-Secretary set out that China’s imposition of new rules to disqualify elected legislators in Hong Kong was a breach of the Sino-British Joint Declaration. He called on China to uphold its international obligations.

“Beijing’s latest actions are an assault on Hong Kong’s high degree of autonomy and rights and freedoms guaranteed under the Joint Declaration.”

On 18 November, the Foreign Ministers of Australia, Canada, New Zealand, and the UK, and the US Secretary of State issued a joint statement:

“We the Foreign Ministers of Australia, Canada, New Zealand, and the United Kingdom, and the United States Secretary of State, reiterate our serious concern regarding China’s imposition of new rules to disqualify elected legislators in Hong Kong. Following the imposition of the National Security Law and postponement of September’s Legislative Council elections, this decision further undermines Hong Kong’s high degree of autonomy and rights and freedoms.

“China’s action is a clear breach of its international obligations under the legally binding, UN-registered Sino-British Joint Declaration. It breaches both China’s commitment that Hong Kong will enjoy a ‘high degree of autonomy’, and the right to freedom of speech.

“The disqualification rules appear part of a concerted campaign to silence all critical voices following the postponement of September’s Legislative Council elections, the imposition of charges against a number of elected legislators, and actions to undermine the freedom of Hong Kong’s vibrant media.

“We call on China to stop undermining the rights of the people of Hong Kong to elect their representatives in keeping with the Joint Declaration and Basic Law. For the sake of Hong Kong’s stability and prosperity, it is essential that China and the Hong Kong authorities respect the channels for the people of Hong Kong to express their legitimate concerns and opinions.

“As a leading member of the international community, we expect China to live up to its international commitments and its duty to the people of Hong Kong. We urge the Chinese central authorities to re-consider their actions against Hong Kong’s elected legislature and immediately reinstate the Legislative Council members.”

On 12 November, the High Representative of the EU released a statement calling for the immediate reversal of the decisions by the authorities in Beijing and Hong Kong and for the immediate reinstatement of the Legislative Council members.

Introduction of “patriotism” as a requirement for holding office

During the reporting period, mainland Chinese officials began to introduce “patriotism” as a criteria for holding office in Hong Kong. On 30 September, Central Government Liaison Office (CGLO) Director Luo Huining said that for Chinese people, “patriotism is not a choice but an obligation”. On 11 November, following the disqualification of the four Legislative Council members, the CGLO stated that “the political rule that Hong Kong must be governed by patriots shall be firmly guarded”. During a legal summit on the 30th Anniversary of the Basic Law on 17 November, Hong Kong and Macau Affairs Office (HKMAO) Deputy Director Zhang Xiaoming said that patriotism “is a political rule under ‘One Country, Two Systems’ and has become a legal requirement now”. He noted that “while core values like democracy and freedom are cherished in Hong Kong, patriotism should always come first.” On 4 December, CGLO Director Luo Huining said that the decision to disqualify the Legislative Council members had clarified the political rules for “patriots governing Hong Kong”.

Civil servant oath-taking

On 10 July, the Hong Kong SAR Government introduced a proposal, which would require civil servants joining the Government on or after the 1 July 2020 to sign a declaration to uphold the Basic Law and pledge their allegiance to the Hong Kong SAR. The proposal was that existing civil servants should sign a declaration or take an oath, starting with high-ranking civil servants, or those seeking promotion. Secretary for the Civil Service Patrick Nip Tak-ken said civil servants would not be allowed to participate in any anti-government protests under the new proposals.

On 12 October, the Hong Kong SAR Government introduced the requirements. In response, civil service unions asked the Government to explain why the change was needed and noted that the criteria of allegiance were vague and that they could be breached inadvertently.

On 2 December, Secretary for the Civil Service Patrick Nip said that new civil servants who neglect or refuse to take an oath or sign a declaration would have their contracts terminated. He noted that the Hong Kong SAR Government was finalising oath-taking arrangements for existing civil servants.

On 30 December, the Hong Kong SAR Government issued a consultation paper to the Hong Kong Chinese Civil Servants’ Association, which set out four types of behaviours which would constitute a violation of the oath. These repeated the criteria introduced for standing for legislative office, including supporting Hong Kong independence, refusing to recognise Chinese sovereignty over Hong Kong, soliciting intervention by foreign forces, or activities that endanger national security.

The allegiance criteria introduced for civil servants, as for legislators, create new and arbitrary reasons for dismissal. These criteria risk limiting freedom of speech and association, rights set down in paragraph 3(5) of the Joint Declaration.

More broadly, for the sake of Hong Kong’s stability and prosperity, it is essential that the mainland Chinese and Hong Kong authorities respect the channels for

the people of Hong Kong to express their legitimate concerns and opinions. It remains in Hong Kong's best interests for people to be able to express a range of political views and for the Government to be scrutinised meaningfully.

Beijing's decisions to impose the National Security Law and then, a few months later, to disqualify elected legislators, represent two breaches of the Joint Declaration in just five months. This undermines trust in the Chinese Government's willingness to uphold its legally binding obligations agreed in the Joint Declaration, and calls into serious question China's commitment to aspects of the 'One Country, Two Systems' framework.

LEGAL AND JUDICIAL SYSTEMS

During the reporting period, Hong Kong's Courts heard a substantial number of protest-related cases. As explained in the last Six-monthly Report, the National Security Law alters significantly the relationship between the mainland and Hong Kong judicial systems in national security cases.

Protest-related arrests and judicial cases

According to Police statistics, from 9 June 2019 to 31 December 2020, a total of 10,200 people were arrested in relation to anti-extradition bill protests. Of those, around 2,450 had been formally charged by the end of the reporting period. Over 940 people completed judicial proceedings, with 190 given prison terms. Over 40% of those arrested were students. Media reporting suggests that 46 civil servants, and 110 teachers were amongst those arrested.

There have been a number of cases where courts have ruled against the Hong Kong SAR Government. In July, the District Court acquitted the first three defendants to face rioting charges in relation to the anti-extradition protests, with the judge saying that the case was based solely on circumstantial evidence. In August, a Magistrate acquitted a District Councillor of assaulting police, noting that the police officers concerned were "dishonest and unreliable witnesses". In December, the Magistrates' Court acquitted a social worker of obstructing police at a demonstration, ruling that the police witness was unreliable.

Hong Kong SAR Government intervenes in prosecutions against police

In January 2020, then Legislative Council member Ted Hui Chi-fung filed a private prosecution against a police officer for firing a live round at a 21-year-old man in Sai Wan Ho in November 2019. On 18 August, Secretary for Justice Teresa Cheng intervened to end the private prosecution on the basis that the case lacked a reasonable prospect of conviction. Posting on Facebook, Hui accused Cheng at that time of undermining citizens' rights to pursue private prosecutions under the common law system. On 17 November, Hui filed a judicial review against the Department for Justice's decision.

Ruling on police identification

The Hong Kong Journalists Association brought a judicial review of the Hong Kong Police Force's use of identification during the anti-extradition protests and the mechanisms for bringing complaints against the police. On 19 November, the High Court ruled that the Hong Kong Police had failed to display identification numbers, amounting to a breach of the Hong Kong Bill of Rights. The Court also ruled that the existing complaints mechanism was inadequate, given that the first-tier complaints body - Complaints Against the Police Office (CAPO) – was not institutionally independent of the Force, and the second-tier complaints mechanism – the Independent Police Complaints Council (IPCC) – lacked the necessary investigative powers and the ability to overturn CAPO's decisions.

Chief Executive Carrie Lam had previously ruled out a Commission of Inquiry into the protests on the basis that the IPCC was sufficient and held sufficient powers to handle complaints against the police.

Amnesty International Hong Kong called the ruling “a small step towards securing truth and justice”.

On 21 November, Police Commissioner Chris Tang Ping-keung confirmed that the Police would appeal the decision.

The UK has consistently maintained that there must be a robust, credible and independent investigation into handling of protests in Hong Kong. Such an inquiry would be an important step in healing divisions and rebuilding trust.

Emergency Regulations Ordinance

During the 2019 protests, the Hong Kong SAR Government used emergency powers under the Emergency Regulations Ordinance (ERO) to ban facemasks at certain public gatherings. A group of pro-democracy legislators and activists challenged the necessity and proportionality of the ban, and the constitutionality of the powers contained in the ERO. On 21 December, the Court of Final Appeal (CFA) ruled that the emergency powers in the ERO were constitutional as they were limited by judicial review and post-facto review in the Legislative Council. The CFA also ruled that the mask ban could remain in place, noting in the judgment that, “The interests of Hong Kong as a whole should be taken into account since the rule of law itself was being undermined by the actions of masked lawbreakers who, with their identities concealed, were seemingly free to act with impunity.”

Criticism and attacks on judges

During the reporting period, there was scrutiny of judicial decisions with public and press criticism of judgments and complaints against judges, with some receiving death threats.

On 30 October, an injunction to restrain doxxing against judicial officers and their

families was extended after it was revealed that judicial officers had faced criticism on social media from both pro-Beijing and pro-democracy supporters, had their personal details published, and their families had received nuisance phone calls.

Following the High Court ruling on police identification, Tai Kung Pao newspaper published an article which appeared to question the partiality of a judge. On 27 December, following the High Court decision to grant bail to Jimmy Lai Chee-ying, Chinese state media outlet *The People's Daily* published an article criticising the Court's decision. The Hong Kong Bar Association condemned attacks on judges by media outlets and individuals and noted that such pressure could constitute interference with judicial proceedings.

Judicial reform

A number of calls for judicial reform have been made by pro-Beijing media and pro-Establishment politicians. Suggestions have included a sentencing committee to review judicial decisions and a monitoring committee to oversee judicial complaints and conduct. On 2 December, Chief Secretary Matthew Cheung Kin-chung said that "The Judiciary reiterates that sentencing is a judicial function and it is a question of law. This function should be exercised by the courts independently and exclusively."

On 17 November, HKMAO Deputy Director Zhang Xiaoming urged the Hong Kong authorities to reform the judiciary, highlighting calls from a former Court of Final Appeal judge for a radical cultural change to regain the trust of Beijing.

Debate around separation of powers

The removal of the term "separation of powers" from school textbooks prompted a debate in the media about the status of Hong Kong's judiciary. Addressing the media on 31 August, Chief Executive Carrie Lam said, "There is no separation of powers in Hong Kong", but she said there were checks and balances. Lam noted that Hong Kong's system of governance was executive-led, and that its powers were authorised by the Chinese Central Authorities. The Hong Kong Bar Association (HKBA) criticised Lam's remarks as "unfounded and inconsistent with the unambiguous provisions of the Basic Law prescribing and delineating the functions of the three branches of government."

Non-permanent judges in the Court of Final Appeal (CFA)

The presence of foreign judges in Hong Kong's Court of Final Appeal (CFA) attracted widespread media debate during the reporting period. This focused attention on Australia, Canada and the UK, as judges from these countries had been continuing to serve on a non-permanent basis on the CFA.

On 18 September, Australian judge, the Honourable Mr Justice James Spigelman, resigned from Hong Kong's CFA as a non-permanent judge. Media quoted Justice

Spigelman as saying he resigned for reasons “related to the content of the National Security Legislation”. Justice Spigelman did not release a statement.

Following Justice Spigelman’s resignation, Chair of the Council of the Hong Kong Bar Association, Philip Dykes SC, reportedly urged international judges to not withdraw from the Court of Final Appeal, noting that their absence would threaten the credibility of the legal system. The Chief Justice of the CFA at the time, Geoffrey Ma, issued a statement following the enactment of the National Security Law in which he referred to the importance of foreign judges, like all judges, being appointed on merit and not political considerations. In this statement, he also referred to their “immense contribution to Hong Kong”.

On 5 October, Chief Executive Carrie Lam accepted the recommendation of the Judicial Officers Recommendation Commission to appoint The Rt. Hon. Lord Patrick Hodge to the CFA as a non-permanent judge. Lam noted that the presence of overseas judges showed Hong Kong’s judicial independence and helped to maintain a high degree of confidence in the legal system. Lord Hodge was appointed on 23 December for a term of three years. Lord Hodge’s appointment brought the number of non-permanent foreign judges in Hong Kong’s CFA to 14, including nine UK judges, two of whom are serving judges.

Future of UK judges serving as non-permanent judges on the Court of Final Appeal (CFA)

On 17 July, the President of the UK Supreme Court, The Rt. Hon. Lord Reed of Allermuir, released a statement noting that the National Security Law contained a number of provisions which gave rise to concerns and that its effect would depend on how it was applied in practice. Lord Reed expressed the UK Supreme Court’s support for Hong Kong judges in their commitment to safeguard judicial independence and the rule of law, and said that the Supreme Court would continue to assess the situation in Hong Kong, in discussion with the UK Government. Finally, Lord Reed noted that the continuation of UK judges in Hong Kong’s Court of Final Appeal would depend on whether their service remained compatible with judicial independence and the rule of law.

Responding to questions in the House of Commons Foreign Affairs Committee on 6 October, the Foreign Secretary confirmed that he and the Lord Chancellor, The Rt. Hon. Robert Buckland MP, were carrying out ongoing consultations with Lord Reed about the presence of UK judges on Hong Kong’s CFA. The Foreign Secretary noted that the case for the continued presence of UK judges in the CFA was “finely balanced”. He highlighted the positive role UK judges could play in providing checks and balances, but said it was essential that they did not give the Hong Kong judiciary a “veneer of legitimacy” if its autonomy was under threat.

The growing pattern of politically motivated decisions by the authorities to arrest and prosecute pro-democracy figures represents a continued assault on rights and freedoms and damages Hong Kong’s international reputation.

It is essential that the Hong Kong judiciary is 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

Hong Kong's rights and freedoms came under significant pressure due to the passing of the National Security Law and from a series of other measures. Freedom of speech was particularly affected with the Hong Kong SAR Government restricting, and in many cases criminalising, any discussion of Hong Kong independence. Police raided one of Hong Kong's largest newspapers and new systems were introduced for media accreditation. Education was reformed to remove content on human rights and to introduce national security education into the school curriculum. Freedom of assembly remained restricted, due partly to Covid-19.

Press and media freedom

On 7 July, the Hong Kong Journalists Association (HKJA) issued its annual report, which highlighted that press freedom in Hong Kong was at a record low.

Journalist visas

There has been concern from journalists about visas for Hong Kong being denied as a way of putting pressure on their activities. On 6 August, the Foreign Correspondents' Club (FCC) Hong Kong issued a statement concerning the "highly unusual" delays in issuing visas to foreign journalists. On 27 August, Irish journalist Aaron Mc Nicholas was denied a work visa to become editor of local news platform Hong Kong Free Press, without any official explanation. The Hong Kong Immigration Department has not confirmed whether journalist visas are now being vetted on the basis of national security.

New police press accreditation scheme

On 22 September, Hong Kong Police adopted a new media accreditation policy. Police stated that they would no longer recognise credentials issued by local journalist associations and that the police would only allow media representatives registered with the Government to attend press briefings. Police argued that protesters had previously posed as reporters and that the changes were necessary to identify and exclude political activists posing as journalists. The new policy nevertheless gave rise to concerns that it would function as an official accreditation and would be used to

influence and exclude journalists; the Hong Kong Journalists Association stated that the new system would “seriously impede” press freedom, and the Foreign Correspondents’ Club noted that it allowed the Hong Kong Police, not editors, to decide which journalists report on the police.

Arrest of Bao Choy Yuk-ling

On 3 November, the Hong Kong Police arrested Radio Television Hong Kong (RTHK) producer Bao Choy Yuk-ling, for allegedly making a false statement as to why she obtained vehicle licensing information from a publicly accessible database. Choy had been investigating police misconduct during the 2019 protest incident at Yuen Long.

Raid of Apple Daily

The arrest of Jimmy Lai Chee-ying, the founder and (now former) owner of one of Hong Kong’s most read newspapers, is covered under “Significant Political Developments”. Police confiscated documents from the Apple Daily newsroom and searched journalists’ papers in the first office raid under the new National Security Law. Shares in Next Digital, the holding company for Apple Daily, jumped significantly following the arrest, reportedly due to a co-ordinated campaign to show support.

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. We expect the authorities in Hong Kong to abide by China’s international obligations. It is imperative that this freedom, along with the other rights and freedoms in the Joint Declaration, is fully respected.

Academic freedom

On 28 July, Hong Kong University’s governing council voted to sack associate law professor Benny Tai Yiu-ting over his criminal convictions relating to the 2014 ‘Occupy’ protests. The decision reversed a previous recommendation by the university’s senate that there were not enough grounds for Tai’s dismissal. On 27 July, Hong Kong Baptist University refused to renew the contract of lecturer and (then) Legislative Council member Shiu Ka-chun due to his criminal convictions relating to the 2014 Occupy movement. More than 3,900 academics and students signed a petition demanding the two universities reverse their decisions to dismiss Tai and Shiu, noting that their cases were still awaiting appeal in the courts.

Education

Freedom of expression in schools

On 8 July, Education Secretary Kevin Yeung Yun-hung set out that school pupils must not be allowed to participate in class boycotts, sing protest songs, form human chains, or chant slogans.

In October, the Education Bureau delisted a primary school teacher for using materials advocating Hong Kong independence. Chief Executive Carrie Lam noted that teachers should not “convey wrong messages” or smear the Government.

Reform of Liberal Studies

In 2019, the Education Bureau introduced a consultancy service to “improve the quality” of Liberal Studies textbooks. Books that were not reviewed by the Bureau would be left off the Government-curated list. On 17 August, following the review, local publishers updated their textbooks, with some content related to human rights, rule of law, press freedom and universal suffrage either removed or revised. Removal of the term “separation of powers” also sparked a wider debate (see above).

On 26 November, the Secretary for Education announced that Liberal Studies would be renamed, and a new curriculum introduced with an emphasis on China’s development, China’s constitution, the Basic Law and ‘rule of law’.

National security education in schools

On 1 December, the Secretary for Education confirmed that schools in Hong Kong would teach the National Security Law, and guidelines were issued to educators.

Freedom of expression is guaranteed in 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.

Marches and demonstrations

Government social distancing rules to prevent the spread of Covid-19 meant that public gatherings and demonstrations were illegal during the reporting period.

A number of unauthorised protests nevertheless took place. These include:

- **01 July** – Protests against the National Security Law (see above).
- **21 July** – Four District Councillors were arrested for breaking social distancing rules after they joined a group commemorating the 2019 incident at Yuen Long.
- **11 August** – People gathered in shopping malls across Hong Kong to protest against the arrest of Jimmy Lai Chee-ying.
- **31 August** – A number of people were fined for breaching social distancing rules after gathering to highlight the 2019 incident at Prince Edward metro station.

- **06 September** – Thousands of people demonstrated against the National Security Law and the postponement of the Legislative Council elections. 270 protesters were arrested for illegal assembly.
- **01 October** – The Civil Human Rights Front were denied permission by police to hold a rally on Chinese National Day. A number of people nevertheless took to the streets to demand the release of the 12 Hong Kongers detained in Shenzhen. Police arrested 86 people.

In general, protests were much smaller in scale than in 2019, and police were able to anticipate protest locations and deploy beforehand in large numbers.

Concerns expressed about Hong Kong at the United Nations

On 30 June, the UK delivered a statement on Hong Kong and Xinjiang at the 44th session of the United Nations Human Rights Council, on behalf of 28 countries⁶, urging the mainland Chinese and Hong Kong SAR Governments to reconsider the imposition of the National Security Law and prevent further erosion of rights and freedoms.

Extract from the cross-regional statement on Hong Kong and Xinjiang at the 44th United Nations Human Rights Council, 30 June 2020

“We further wish to raise our deep and growing concerns at the imposition of legislation related to national security on Hong Kong, with clear implications for the human rights of people in Hong Kong.

“The Joint Declaration, a legally binding treaty, registered with the United Nations, sets out that Hong Kong is guaranteed a high degree of autonomy and rights and freedoms, including those of the person, of the press, of assembly, and of association and that the ICCPR and ICESCR shall remain in force. These rights are also guaranteed in the Basic Law for the Hong Kong Special Administrative Region.

“Making such a law without the direct participation of Hong Kong’s people, legislature or judiciary of Hong Kong undermines ‘One Country, Two Systems’.

“We urge the Chinese and Hong Kong Governments to reconsider the imposition of this legislation and to engage Hong Kong’s people, institutions and judiciary to prevent further erosion of the rights and freedoms that the people of Hong Kong have enjoyed for many years.”

During the same session of the UN Human Rights Council, Chief Executive Carrie Lam made a statement, outlining the Hong Kong SAR Government’s position on the National Security Law.

⁶ As of 15 July, the statement was supported by Albania, Australia, Austria, Belgium, Belize, Canada, Denmark, Estonia, Finland, France, Iceland, Ireland, Germany, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, the Republic of the Marshall Islands, the Kingdom of the Netherlands, New Zealand, Norway, Palau, Slovakia, Slovenia, Sweden, Switzerland, and the United Kingdom.

On 25 September, the UK delivered a statement on China during the Item 4 General Debate at the UN Human Rights Council. The statement further addressed Hong Kong's National Security Law:

“In Hong Kong, Beijing’s imposition of the National Security Law is a serious breach of the legally binding Sino-British Joint Declaration. It violates Hong Kong’s high degree of autonomy and directly threatens rights and freedoms.

“The National Security Law is being implemented with the apparent intention to eliminate dissent. It allows prosecution of certain cases in mainland China, a jurisdiction where defendants are often held for long periods without charge or access to legal counsel, and where we have concerns about judicial independence, due process, and reports of torture.”

On 6 October, a joint statement in the UN General Assembly on behalf of 39 countries⁷, including the UK, urged the mainland Chinese and Hong Kong authorities to guarantee the rights protected in the International Covenant on Civil and Political Rights (ICCPR) and the Joint Declaration, including freedoms of speech, the press and assembly.

“We also share concerns expressed separately by a group of UN experts that a number of provisions in the Hong Kong National Security Law do not conform to China’s international legal obligations. We have deep concerns about elements of the National Security Law that allow for certain cases to be transferred for prosecution to the Chinese mainland. We urge the relevant authorities to guarantee the rights which are protected under the ICCPR (International Covenant on Civil and Political Rights) and the Sino-British Joint Declaration, including freedoms of speech, the press and assembly.

“We also call on China to uphold autonomy, rights and freedoms in Hong Kong, and to respect the independence of the Hong Kong judiciary.”

On 9 December, UN High Commissioner for Human Rights Michelle Bachelet expressed concern over the “rapidly shrinking civic and democratic space” in Hong Kong and warned that the arrests and convictions of democracy activists “risk causing a wider chilling effect on the exercise of fundamental freedoms”.

⁷ Albania, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Denmark, Estonia, Finland, France, Germany, Haiti, Honduras, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, the Republic of the Marshall Islands, Monaco, Nauru, the Kingdom of the Netherlands, New Zealand, North Macedonia, Norway, Palau, Poland, Slovakia, Slovenia, Spain, Sweden, Switzerland, the United Kingdom and the United States.

OTHER REPORTS

On 22 July, the European Union published its annual report entitled “An exceptionally challenging year”, which noted serious challenges to Hong Kong's high degree of autonomy, stability and freedoms in 2019. EU High Representative for Foreign Affairs and Security Policy, Josep Borrell said, “As the European Union, we will not simply stand back and watch as China attempts to curtail these freedoms even more”.

On 4 August, the UK All-Party Parliamentary Group (APPG) on Hong Kong published a report entitled “Inquiry into violations of human rights and humanitarian principles by the Hong Kong Police Force”. The inquiry concluded that since the 2019 protests and the enactment of the National Security Law “humanitarian aid workers have been subjected to a variety of treatment that fell short of international humanitarian law and principles, international human rights and the Sino-British Joint Declaration.”

On 6 November, the US Congressional-Executive Commission on China (CECC) highlighted in its annual report a rapid deterioration of human rights in Hong Kong following the enactment of the National Security Law. The report noted that the Hong Kong SAR Government had “exercised its authority in ways that violate fundamental human rights”.

On 2 December, the US Congress issued its US-China Economic and Security Review Commission (ESRC) Report. It stated that the National Security Law brought all Hong Kong people under the “full and direct authoritarian rule of the Chinese Communist Party”.

UK/HONG KONG BILATERAL RELATIONS

Visits

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

The Permanent Under-Secretary of the Foreign, Commonwealth and Development Office made a ‘virtual visit’ to Hong Kong on 29 October 2020. He met representatives from across the political spectrum and representatives of the British business community.

Trade and Investment

UK trade with Hong Kong has continued to perform well. Against a global context of UK exports declining during 2020 due to Covid-19, total UK exports to Hong Kong increased in the year to the end of September. The UK exported a total of £12.8bn during this timeframe, a 0.5% increase compared with the previous year. In contrast, UK imports from Hong Kong declined by 6.8% to £9.4 billion over the same timeframe. Hong Kong was the UK’s 12th largest trading partner globally.

Despite international travel restrictions, a small number of government engagements between the UK and Hong Kong continued to take place. UK Government ministers held roundtables with representatives from the British Chamber of Commerce in July, and with strategic Hong Kong investors in October.

Culture

Fourteen local primary schools participated in the Hong Kong Jockey Club British Council Core Skills for Life programme, which champions 21st century skills such as communication and collaboration, creativity and imagination, critical thinking and problem solving. 144 teachers have been trained in the last three years, with 11,400 students participating overall.

The British Council ran multiple virtual education fairs, open days and roadshows, and launched a new digital platform to promote study in the UK. By December, these events and platforms had directly engaged around 2,500 people and 70 UK education institutions.

In November, the *Robots* exhibition opened at the Hong Kong Science Museum in partnership with the London Science Museum, featuring a unique collection of over 100 robots.

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 these will remain unchanged for 50 years from 1997. A series of interventions by the mainland Chinese authorities into Hong Kong's affairs have undermined this high degree of autonomy. The mainland Chinese and Hong Kong authorities have also significantly reduced the space for people to exercise their rights and freedoms. The UK Government is particularly concerned by the National Security Law and the steps to reduce democratic participation in Hong Kong's political system, which constitute clear breaches of the Joint Declaration. Hong Kong's independent judiciary is under increasing pressure. Hong Kong's separate economic system remains largely intact.

Respect for fundamental rights, access to justice, and genuine participation by the full breadth of Hong Kong's society is the most effective way to achieve long-term stability in Hong Kong, and would also serve China's interests and reputation.

The UK continues to seek a constructive relationship with China. We remain fully committed to holding China to account for its actions, especially those which breach the Sino-British Joint Declaration. The UK will continue to honour its responsibilities to the people of Hong Kong, including through the offer of the new, bespoke immigration route to British Nationals (Overseas) and their dependants. 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 for at least 50 years. We call on China to honour that guarantee.

LIST OF ABBREVIATIONS

APPG	All-Party Parliamentary Group
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
ESRC	Economic and Security Review Commission
ERO	Emergency Regulations Ordinance
FCC	Foreign Correspondents' Club
HKBA	Hong Kong Bar Association
HKJA	Hong Kong Journalists Association
HKMAO	Hong Kong and Macao Affairs Office
HKPORI	Hong Kong Public Opinion Research Institute
HKSAR	Hong Kong Special Administrative Region
HSBC	Hong Kong and Shanghai Banking Corporation
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
NPC	National People's Congress
NPCSC	National People's Congress Standing Committee
NSL	National Security Law
RTHK	Radio Television Hong Kong
SAR	Special Administrative Region
PRC	People's Republic of China