

THE STATE OF CIVIL AND POLITICAL RIGHTS IN HONG KONG: HONG KONG WATCH WRITTEN SUBMISSION

In the last year, since the National Security Law was imposed on Hong Kong by Beijing, we have seen a dramatic dismantling of the basic rights and freedoms that the people of Hong Kong previously enjoyed under the ‘One Country, Two Systems’ model.

To put it simply, the Chinese Communist Party has driven a coach and horse through its international treaty commitments to respect Hong Kong’s autonomy and leave the basic rights, culture, and rule of law unchanged for fifty years as outlined in the Sino-British Joint Declaration. The UK Government has stated that China is now in “permanent breach” of this international treaty.

Beijing’s crackdown in Hong Kong has been extensive. Nearly every pro-democracy activist is now either in jail, awaiting trial, or in exile abroad. Despite previous assurances by the Hong Kong Chief Executive that this draconian law would be used sparingly and not retrospectively applied, we have seen it used to target lawmakers, activists, journalists, students, civil society leaders, trade unionists, teachers, and even speech therapists.

Political rights were the first to be curtailed under the Beijing’s new national security regime in Hong Kong, with the mass arrest of 53 pro-democracy activists and lawmakers for the stated crime of organising democratic primaries. In the words of Hong Kong’s Security Minister at the time, John Lee, the pro-democracy activists were accused of subversion for their plans to “paralyze the Government” by winning a majority of seats in Legislative Council elections.

Hong Kong’s Chief Executive, Carrie Lam, used the pandemic as a smokescreen to postpone Legislative Council elections and buy Beijing time to change Hong Kong’s electoral system and bar pro-democracy parties from running.

Under the new system, Beijing intends to cut the number of directly elected lawmakers from 35 to 20 while increasing the number directly appointed by expanding the Legislative Council’s membership to 90. A new security vetting committee chaired by the Chief Secretary of Hong Kong has been established to ensure that lawmakers are sufficiently “patriotic”.

In the recent election of Hong Kong’s Election Committee which selects the Hong Kong Chief Executive and directly appointed lawmakers, we saw first-hand the impact of Beijing’s new electoral system on opposition parties, with just one opposition candidate being elected out of the 1,500-membership body.

The pro-democracy parties won a landslide in the District Council elections in November 2019, marking the last free elections in Hong Kong. In the last year, Beijing has moved to purge pro-democracy District Councillors through a mixture of disqualification, prosecutions, and threatening financial penalties if they failed to uphold a new oath of allegiance. This led to over 200 District Councillors resigning this summer and many opting to leave the city.

Freedom of the press has not fared much better under the National Security Law. Jimmy Lai, the former owner of Apple Daily and pro-democracy activist, was one of the first to be arrested and charged under this draconian law. He stands accused of “collusion with foreign forces” for comments he made in a newspaper interview regarding the possibility of the US introducing Magnitsky sanctions against Hong Kong officials.

Without Jimmy Lai at the helm, the authorities moved swiftly to undermine and attack the Apple Daily newspaper, which was the largest pro-democracy publication in the territory. Arresting executives and using the National Security Law to freeze the personal bank accounts of Jimmy Lai and the accounts of Apple Daily, the Chinese Government forced Apple Daily to announce its closure on 23 June 2021.

Apple Daily’s closure came despite the newspaper having 600,000 paid subscribers and \$500 million in the bank which would allow it to continue to print for at least another 18 months. Following the newspaper’s closure, the Hong Kong Police arrested a number of former Apple Daily journalists under the National Security Law and confirmed that it has a list of journalists who will be arrested if they seek to leave the city.

In response to the closure of Apple Daily, six executive directors from the pro-democracy publication Stand News announced their resignation. The publication said that it would be removing all opinion pieces and commentary from its website prior to May 2021, and the publication announced that it would no longer accept new donations and will halt monthly subscriptions. Meanwhile the pro-democracy website Winandmac announced that it will relocate out of Hong Kong.

Academic freedom has suffered at the hands of the National Security Law. Pro-democracy academics have been fired, the books of pro-democracy activists have been banned from public libraries, student unions have been closed down, and national security education has been introduced in schools and universities. Teachers and parents are actively encouraged to monitor and inform on each other, with a national security hot-line set up to report national security violations.

A number of students have been arrested under the draconian law for posts on social media where they have advocated independence or shared pro-democracy slogans. A growing number of their contemporaries face “illegal assembly” or “rioting” charges for joining large scale anti-Extradition Bill protests in 2019, which were largely peaceful.

The National Security Law has thrown into question the rule of law and the independence of the judiciary in Hong Kong. Judges who oversee national security cases are handpicked by a committee chaired by Carrie Lam, normal bail conditions have been revoked, and the pro-

Beijing media is weaponised to pressure judges to impose strict sentences or else face public criticism. In a recent case, a District Judge resigned and left Hong Kong for the UK, after facing criticism by a pro-Beijing media outlet for a case acquitting protestors.

47 pro-democracy activists, including former legislators, stand accused of “subversion” for organising democratic primaries. Most of them continue to languish in jail awaiting trial unable to get bail. The grounds for denial of bail are spurious to say the least. In one case a former lawmaker was denied bail because his office received an email invitation to an event at the US embassy.

The continued participation of foreign judges is increasingly becoming untenable. While none of them are likely to be called on to handle national security cases, their presence offers an increasingly corrupted legal system a veneer of legitimacy.

Civil society groups and trade unions have found themselves in the crosshairs of the National Security Law in the recent months. In a pattern that has become increasingly familiar, pro-Beijing outlets attack civil society groups and call for their investigation, the Hong Kong Government announces that the police will open an investigation, and the groups are then forced to disband. In just a few short months, we have seen the largest teachers’ union, the largest coalition of trade unions, the largest civil society group which organised protests, and the group that organised the annual Tiananmen Square Massacre Vigil, forced to disband.

The Hong Kong Chief Executive has announced that art installations, cinema, and culture more widely all now must comply with national security. To meet this commitment a raft of new laws has been introduced, including a new film censorship law which will ban foreign movies and drastically curtail Hong Kong’s world-famous film industry.

The cumulative impact of the National Security Law on the destruction of basic rights and freedoms that the people of Hong Kong previously enjoyed can be seen by the thousands of protestors and activists incarcerated in Hong Kong’s overflowing prisons, by the mass exodus of Hong Kongers to the UK, Canada, Australia, and the USA, and by the almost weekly reports of the rapidly deteriorating human rights situation.

The US Congress has done much to stand with the people of Hong Kong by passing the Hong Kong Autonomy Act and the Hong Kong Democracy and Human Rights Act, which we applaud. However, there remains the outstanding question of frontline activists who face arrest and lengthy jail sentences for their participation in peaceful pro-democracy protests.

It cannot be right that the US Congress continues to ignore the plight of Hong Kongers who are in desperate need for asylum. We urge this Congress pass lifeboat legislation, which will ensure that frontline protestors are offered an accelerated route to claim asylum in the USA. This is by far the most practical measure that this Congress can take to continue to support the pro-democracy movement in Hong Kong.