

An end to Hong Kong as we know it?

Monday 6 July 2020, by [HUNG Ho-Fung](#), [McCABE Bret](#) (Date first published: 4 July 2020).

Beijing enacts new security law aimed out stamping out opposition to ruling communist party, extinguishing business interests and fragile democratic freedoms along with it.

The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, more commonly called the Hong Kong national security law in Western media, has only been in effect for three days but the global response has called it the "end of Hong Kong."

The special administrative region, home to roughly 7.5 million people, has been an economic, cultural, and intellectual gateway between the West and China since before its handover from the British government in 1997.

The new security law, which effectively criminalizes any forms of political dissent, threatens to radically change that special status. On the first day of its enactment, Hong Kong police arrested hundreds and used water cannons to disperse thousands of demonstrators who poured out into the streets.

Ho-fung Hung, a professor in the Department of Sociology and the School of Advanced International Studies of the Johns Hopkins University, has researched and written about political economy, protest, and nation-state formation in China and East Asia for the past 20 years. The Hub spoke with Hung about the new bill and what it could mean for civil disobedience in Hong Kong, global business, and scholarship.

Question: The Chinese government has been trying to enact some form of a security law in Hong Kong since, I think, 2003. Could you speak a bit to the government's urgency and secrecy behind the passing of this new law?

Ho-fung HUNG:

Yes, the Chinese government has tried to pass some kind of a national security law for a long time. This national security law has some similarity with the one that they tried but failed to pass in 2003, but there are significant differences that make a huge impact.

The similarity is that **Hong Kong inherited a lot of draconian, British colonial-era laws** that enables the government to crack down on organizations, protests, and gatherings. **In the late colonial period**, the British Hong Kong government put the law aside and **didn't use it**, so Hong Kong, though not a democracy, had freedom of assembly, protest, and speech. The colonial-era law dealt with certain kinds of actions, gatherings, and protests, but it **didn't have the tools to prosecute people based on their speech, their opinion, and their associations with other people**.

The Chinese came in—in 1997—and wanted to change that. The Chinese government wanted to impose some kind of national security law that outlaws certain kinds of opinion and speech and associations with other people deemed subversive to the Chinese state. That is the main similarity between 2003 and now. The Hong Kong government has always been able to arrest people for so-called illegally assembling, protesting, and gathering, but they cannot arrest people for the articles

they write, for the speeches they make, and for merely knowing and having connections with people that are deemed subversive to the government.

And in **2003**, they tried to do it through the local legislative process in Hong Kong. **Article 23** in the Basic Law—the mini-constitution of Hong Kong after 1997—says that the Hong Kong government would enact and legislate this kind of anti-subversive law through the Hong Kong legislative council, which is not totally democratic but half of it is elected democratically. It has some kind of legitimacy and it is nominally autonomous from the Chinese government. Trying to pass an anti-subversion law there at least has the pretension of local autonomy, of “one country, two systems.”

In 2003, there was a popular backlash with massive protest and international outcry, and the government backed down.

This time, the Chinese government is so desperate that they **no longer trust the local Hong Kong government**, including Beijing allies, to do the job. They fear the same thing will happen again, like the [2019] extradition bill. The bill allowed people in Hong Kong to be arrested and transferred to mainland Chinese court, which is not a rule-of-law system, and the government shelved the bill because of the popular protest.

So the Chinese government gave up all hope on letting the Hong Kong local government do this anti-subversion law itself and took this very extreme step to legislate directly in Beijing in secret. The whole world and Hong Kong people didn't know about what the law contains until it was announced and became effective. It is **done in Beijing in secret and imposed from Beijing**. It skipped even the pretensions of one country two system and local autonomy of Hong Kong. It is a game changer.

Question: Does this security law effectively criminalize all forms of civil disobedience? I ask for two reasons: One, because from the Umbrellas Revolution of 2014 on, the decentralized organizing and open-source tactics of Hong Kong protestors have been at the forefront of the digital age movement for thinking and organizing, and two, the history of policing in Hong Kong even pre-1997 was corrupt and fraught, and from the outside it does appear the law effectively and officially makes Hong Kong police a domestic counterinsurgency force.

Yes—they actually militarized the Hong Kong police with all this military-grade gear and tactics, which is quite similar with police forces around the world nowadays. Like I said, the Hong Kong government inherited laws from the colonial era to deal with protests, and Beijing doesn't worry about protests themselves.

What they worry about is the strong public support of the protests. That caught Beijing by surprise last year because in 2014, even a peaceful occupation movement invoked public opinion backlash against it at the end, and the pro-establishment politicians didn't do very badly in the election after that. Meaning that Beijing could take comfort that existing laws can deal with protest and the public opinion in Hong Kong would turn away from protesters in the end.

This time the protest has been very persistent, and polls by universities consistently show that the majority of the Hong Kong people are behind the protestors. They are sympathetic to it. There's no backlash against protestors.

And in the **local District Council election in November** last year, there was a landslide victory of the democratic candidates. The District Councils in Hong Kong handles such mundane issues as fixing water pipes and building roads. This kind of local election is always easily won by pro-establishment candidates. Beijing expected a backlash against the protest and pro-establishment candidates to win again. So the democratic landslide in **such an election surprised Beijing**. It shows the public opinion against Beijing is widespread and persistent—even when the protests turned more confrontational and militant and even violent. The popular backlash against the protest that Beijing had been waiting for didn't come, and that worried Beijing.

Beijing thinks that it is about hearts and minds. China's official media attacked Hong Kong media

and social media, blaming them for spreading a negative image and distrust of the Chinese government. Beijing thinks that there's an emergency situation in Hong Kong and they have to **control people's thought and speech**. They think without such control, they will lose Hong Kong like they lost Taiwan.

This September there is a legislative council election, and Beijing fears that the same democratic landslide will happen. The Chinese official media has been saying that if the opposition gains a super majority in the legislative council, which is unlikely to happen as the electoral process is set up in a way that heavily favors the pro-establishment camp, it **will amount to a revolution** in Hong Kong. **They fear Hong Kong will soon be like Taiwan, being broken away from China.**

So they feel that it is **very urgent to have this law** to control people's speech and opinion.

Question: The law's 66 articles are ostensibly political—specifying secession, subversion, terrorism, collusion with foreign or external forces—but in Western media from The Wall Street Journal, The Economist, Forbes, and Financial Times, it's being viewed as “the end of Hong Kong.” Can you speak a bit to how a law aimed at political suppression is understood to be such a threat to the business and media landscape?

If you look at how this similar kind of law was applied in mainland China, you know that nobody is safe from it.

- There's a lot of cases in which **foreign companies**, for example, have some disputes with the local government or with some politically well-connected Chinese competitors. Their rival could use this kind of national security charges against employees of the companies, accusing them of being subversive to the government or revealing state secrets. **What constitutes subversion to the government is always very vague.**
- If there is a **Chinese state-owned company** on the Hong Kong stock market and a journalist reports about its accounting **fraud**, that can potentially become a subversive act, according to the law.
- That happened to **journalists** in mainland China when they published on some wrongdoing or corruption of powerful, politically well-connected enterprises. The journalists were shut down and arrested for these kinds of national security charges all the time.
- During the early outbreak of COVID-19, **doctors whistleblowing** about the virus and defying the government effort to cover it up were deemed subversive, too.
- Recently, the **HSBC** has been fiercely attacked by Chinese media and officials, not only for not backing the national security law initially, but also for jeopardizing China's national security, as it abided by a U.S. law enforcement request to hand in information about its Chinese client to assist in an U.S. investigation into a fraudulent case involving Huawei, a very important high-tech firm in China allegedly linked to the military.
- Or look at what constitutes **promotion of separatism**—that is very vague too. You might remember the case in which United Airlines and Marriot listed Taiwan, Hong Kong, and China as separate destinations or locations in their websites. Then they were accused of promoting Taiwan and Hong Kong independence by doing it.

These kinds of cases show how broad Beijing can apply these political charges to businesses and ordinary people far beyond the circle of dissidents and activists. **Everybody will be at risk.** That is why international business associations, including the American Chamber of Commerce in Hong Kong, are expressing concerns. Hong Kong is a financial center that hinges on not only rule of law,

but also the freedom of information.

Question: Given Hong Kong's historic role as an economic hub between Beijing and the West, couldn't this law could be detrimental to mainland China's global business operations in both the short and long terms? We're already seeing HSBC bank receive sharp criticism for one of its executives initially not backing the law back in June.

China is going to, and I think they're readying to, pay a high economic price for doing it.

- Hong Kong has been useful to mainland China because the whole world treats Hong Kong as a separate entity from mainland China in terms of trade, in terms of export control, in terms of immigration. Hong Kong has a separate membership in the WTO from China. Hong Kong's legal system has been in line with the Common Law tradition in Western countries. It has been an offshore financial hub where a lot of Chinese companies raise capital in the Hong Kong capital market.
- Hong Kong is really the global gateway for China because of the legal infrastructures and the people's trust in the fairness and flow of information. People do business there and settle business disputes there. **Now, international businesses are thinking about relocating to other places.**
- Hong Kong's special status and special role has a lot to do with U.S. policy to recognize Hong Kong as a separate economic entity, a separate custom territory, from mainland China on the condition that Hong Kong is sufficiently autonomous from Beijing. Now that the State Department of the U.S. has declared that they no longer can treat Hong Kong as separate from mainland China, they are going to revoke a lot of trading privileges Hong Kong has.
- Most recently, the State Department declared that the U.S. no longer exempts Hong Kong from its export control regime, which bans or heavily regulates the export of high tech equipment and software, covering a lot of things—high-performance computer chips, optical fiber, and engineering software—that have U.S. components to China. Chinese high-tech companies have been using Hong Kong as a kind of a backdoor to get a hold of these hardware, software, and equipment. There will be a major setback to China's high tech ambition when the U.S. finally shuts this backdoor.
- And financially, we will see what the U.S. government will do to put financial sanctions on Hong Kong. Both the Senate and the House passed a law, unanimously, that they will put sanctions on financial institutions complicit with the crackdown on Hong Kong's freedom, and many people would speculate that, in the end, the U.S. might cut off many Chinese banks operating in Hong Kong's access to U.S. Dollar. That would be another major blow to Chinese business ambitions to expand overseas.

Question: I know this question is a more complicated than I can fathom, but how does the security law impact the complicated relationship between the current U.S. administration and China?

In some ways I can't tell which is the cause and which is the effect, but definitely U.S.-Chinese relations have been deteriorating not only over Hong Kong, but over all kinds of issues—high tech, trade, Taiwan. This national security law is just another point of contention, creating another reason or excuse for the U.S. to escalate its actions against China and vice versa. Hong Kong has been very important in, for example, the Huawei case, in which its CFO and the daughter of the boss of Huawei was arrested in Canada and might be extradited to the U.S. because she's accused of setting up a subsidiary of Huawei in Hong Kong to import U.S. equipment and transfer it to Iran, violating international and U.S. sanctions.

Hong Kong has been at the epicenter of this U.S.-China conflict lately, and this national security law

creates a fairly convenient cover for the U.S. administration to sanction Chinese businesses and enterprises.

And, of course, they're concerned about human rights and freedom in Hong Kong too. As has been reported widely, this national security law has **the surprising Article 38, which applies the law to non-Hong Kong residents** who commit things deemed illegal by the law outside of Hong Kong. Basically everybody in the world, if having said something deemed subversive from a Chinese government point of view, can be found guilty, and if you are **in transit via Hong Kong or any other place with extradition arrangements** with Hong Kong, you can be potentially at risk of being arrested under this law.

Question: Is there any pathway to pushing back or overturning this law, either for the local government or citizens of Hong Kong or even global diplomacy?

Well, the protest might die down a little bit but popular opinions and sympathy will still reside with the protestors. And with the distaste for the law, **people will fight on in one way or another**. Maybe they will go **underground**, but they will fight on.

And now the U.S. is discussing new laws providing priority political refugee pathways for people in Hong Kong persecuted by the law—and also the UK, Australia, Taiwan, other countries are also considering providing a kind of exit route for Hong Kong people to seek refuge. So it is going to be a great support to the people in Hong Kong to fight on.

At the same time, if the economic costs incurred by this law are too big, and if the situation in Hong Kong doesn't calm down as expected but continues to be in turmoil, the Chinese elite will, sooner or later, adjust their policy. Revoking the law altogether is more difficult to do; the best we can expect is that **they might put the law aside and not actually enforce it**. So we'll see how they enforce the law.

International pressure and the continuous resistance might change the calculation of the ruling elite in China.

One test case will be the upcoming September legislative council election in Hong Kong.

Usually in this election, people have all kinds of platforms, all kinds of slogans, and all kinds of things to say in the election forums. Whether the Hong Kong government will disqualify candidates or even arrest candidates for their election platform or for their speech and their posters and slogans will be a major testing case of how serious they are going to enforce the law.

Question: Is there any evidence that suggests how Hong Kong protestors and organizers might be responding to the new law to continue the movement?

It is too soon to tell. Many activists are already saying that they disbanded their organizations deemed subversive but they will continue to participate as an individual. People will find new, creative ways to evade the law and continue to fight on, but in what form, that we don't know yet. It will be a kind of a tug of war between the government and the people, so it is going to evolve.

Question: As a researcher interested in political economy and social movements, how is or will the security law affect your scholarship and research? Could it make it harder to find and vet accurate information and data?

It is always a challenge. People researching on mainland China know that, because in mainland China, the environment is already like what people fear about what could happen to Hong Kong, which historically has been the place where people can access information about mainland China relatively freely.

But if Hong Kong is lost, it will definitely have an effect on scholarship, and **people need to be**

more and more careful, particularly with this national security law. I see that even scientists, not only scholars in social sciences and humanities, would be affected.

For example, with regard to the COVID-19 pandemic, now the Chinese government is cracking down on research in mainland China about the origins of the virus, which are deemed very sensitive. In 2017, an Information Technology professor in Australia was attacked by Chinese media linked to the Chinese government for promoting Taiwan and Hong Kong independence as he showed a table in his class about IT protocols in different countries that list Hong Kong, Taiwan and China separately.

The scary part of it is that it's so broad and so vague that everybody will be potentially at risk.

P.S.

<https://hub.jhu.edu/2020/07/04/hong-kong-security-law/>