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**Impact of the Hong Kong Security Law on academic freedom and the safety of staff and students**

**EXECUTIVE SUMMARY**

This paper assesses the risks to staff and students in relation to the passing of a new National Security Law in Hong Kong in July 2020, and makes recommendations to TLG to mitigate its impact on research, teaching, and learning. In parallel to review and discussion at TLG this paper will also be taken to MDCSG for assessment of specific risks relating to PGRs.

Article 38 of the National Security Law has the potential to see foreign nationals prosecuted upon entry to Hong Kong or Mainland China for a broadly defined set of offences which encompass some aspects of what had previously been considered protected speech. The extraterritorial nature of the Law and the broad definition of offences it covers creates the potential to impact on academic freedom and debate.

1. **Risks to staff and students**

The National Security Law allows for prosecution where activities are deemed by the administration in Hong Kong to promote ideas they consider to be promoting the secession of Hong Kong, subverting the power or authority of China’s central government, promoting terrorism or collusion with foreign or external forces. Academic staff and students may, therefore, be at risk of prosecution or detention due to comments made during lectures and seminars if they are subsequently reported to the relevant authorities. Students at the University may feel impeded in academic discussion due to the risk of being reported to the Chinese Government, a risk that is more pronounced for students from Mainland China, the majority of whom will return to China upon graduation. Staff and PGRs with research interests in areas deemed sensitive by the Chinese Government, may be subject to prosecution on entry to China. Staff supervising PhD candidates in sensitive areas, as well as the students themselves, may be subject to prosecution in Hong Kong.

1. **Assessment and Mitigation of risks**

The broad scope of the provisions are uncertain and leave room for interpretation. The hope is that they will be reserved for serious cases where national security is a genuine concern and will not be used to impede academic discussion, though the risk of self-censorship is apparent. Application of the law by the Hong Kong courts gives some reassurance that the laws will be interpreted and applied fairly, but there are concerns that these cases can only be handled by judges specially designated by the Hong Kong Chief Executive. There are also situations where the Office for Safeguarding National Security of the Central People’s Government in the Hong Kong Special Administrative Region can take over the case and the case can be heard by a court appointed by the Supreme People’s Court. Thus, whilst it is likely that the law will not be used to stifle academic discussion that risk cannot be entirely excluded. For the vast majority of academics travelling to HK engaged in teaching or research which does not specifically reference areas of obvious sensitivity, the risk is minimal.

1. **Proposed changes to academic policy and practice

3.1 University commitment to academic freedom:** The university is advised to endorse an unequivocal commitment to academic freedom of discussion and enquiry in relation to the new Law via a communication to staff and students in programme areas most immediately impacted by the new law. This communication is currently being looked at within SEED.

 **3.2 Use of brief “political risk disclosure”** **statements in seminars and lectures:**

The statement below can be adapted by academics for use at their discretion prior to lectures or seminar discussions. Academics are advised to use their judgement as to how often it is appropriate to repeat the statement, based on the curriculum content and diversity of nationalities in the cohort. There should be no requirement for academics to use the statement and the draft wording is intended as a resource only:

* 1. *Hong Kong’s July 2020 National Security Law (NSL), creates offences carrying potentially length sentences for promoting the secession of Hong Kong, subverting the power or authority of the central government, promoting terrorism or collusion with foreign or external forces. These rules are said to apply* ***regardless of your location or citizenship****.*
	2. *This class, like all at UoM, upholds the University’s commitment to*[***academic freedom***](https://www.manchester.ac.uk/discover/vision/)***:****the principles of freedom of thought and speech.*
	3. *We may discuss topics that the Chinese Government may consider sensitive, such as Taiwan, Hong Kong, Tiananmen, Tibet, and Xinjiang. Although British and European privacy laws prohibit the recording and sharing of our class discussions without a legal basis and the prior knowledge of of all participants, students should be aware that their participation in class may be monitored and there is a risk that their views could be reported by other students to the authorities in China or Hong Kong. In some cases they might subsequently be considered to have breached the NSL.*

**3.3 Use of academic sanctions:** TLG is asked to support the principle of existing sanctions under the Student Conduct and Discipline policies for use in seeking to limit the use of inappropriate or intimidating language in lectures or seminars and to reduce the risk of unauthorised recording of lecture or seminar content.

**3.4 Anonymised discussion**: TLG is asked to support the principle of enabling anonymised discussion in a very small number of sensitive areas where fear of surveillance may lead to self-censorship and impede academical enquiry. In a select number of subject areas, for example, areas of Chinese Studies with discussion of politics or sensitive areas of Chinese history and where it is deemed necessary by the Programme Director, discussions may be conducted on an anonymised basis with students’ identities being protected.

**3.5 Assessment**: Students will not be required as part of their course to engage in any debate, academic work or assessment which could directly give rise to the potential consequences identified above (any such engagement would be purely voluntary). Students should have appropriate choice when it comes to academic assessment.
**3.5** **Providing PhD candidates with an option for their thesis to remain unpublished with precautions taken in Viva/Examination process**: current regulations allow for a PGR’s thesis to be embargoed for either 5 years or indefinitely. On case by case basis and subject to prior agreement between the supervisor and PGR, the automatic open access after 1 year would be overridden to protect the PGR.