

TO: James Cleverly, UK Foreign Secretary
FROM: Ellie Harsant, British diplomat
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RE: Escalating concerns about the National Security Law in Hong Kong

Summary

Since 2020, the CCP have implemented the National Security Law upon Hong Kong, causing concern regarding breaches of the 1984 Sino-British Joint Declaration. The CCP is actively seeking to erode civil rights, and liberties within Hong Kong. This is cause for UK concern, as years of a preserved, well-working system of 'one country, two systems' is now coming under threat.

This report calls for immediate action to conduct accountability upon Chinese authorities for their 'escalating violations' (Fraser Institute, 2023). The UK have an obligation to protect the rights and freedoms of Hong Kong citizens, to continue to honour the 1984 Declaration, and should do so through indirect economic sanctions. Calling upon the Chinese government to comply with their international obligations is not enough, as they continue their 'multifront attack' (Freedom House, 2023). The UK must continue their call of an arms embargo, as China retains autonomy over defence affairs, to ensure effective disruption in response to these attacks. Ultimately, China must understand that the continuous breaching of legally binding agreements will not be ignored.

Background

The 1984 Sino-British Declaration ensures a majority of autonomy to Hong Kong in its affairs, so as to preserve 50 years of Hong Kong's Special Administrative Region's capitalist system. Regarding this, the CCP's introduction of the NSL into Hong Kong law has threatened to erode the freedoms and basic human rights China committed to enshrine, and thus such rights are under pressure (House of Lords, 2023).

In May of 2023, Jimmy Lai, a British-Chinese dual citizen conducting business in Hong Kong, was refused a termination of his trail to the NPCSC, as he faced prosecution for advocating against the Chinese encroachment upon Hong Kong freedoms. Furthermore, not only have citizens of the UK been detained in regard to the restrictions of the NSL, citizens of Hong Kong face prosecution daily. The public, press and politicians within Hong Kong are censored by the NSL to complete disassociation.

Not only are freedoms of expression and association being compromised, but freedoms of all nature. The NSL seeks to broadly and loosely define offences such as 'terrorism' and 'collusion', essentially permitting politically motivated prosecutions that uphold a sphere of protection around the CCP (Amnesty, 2020). It is now within UK interests to ensure the 1984 Declaration is no longer disregarded as it has been so, and to guarantee freedoms and rights that have always existed within Hong Kong.

Policy Options

Since the detainment of Jimmy Lai, the UK Government have extended to Hong Kong the arms embargo applied to mainland China in response to the Tiananmen Square Massacre. This is deeply important, so as to ensure the pressure of international concern for the rights of

Hong Kong civilians. Yet, the CCP continue to dismantle systems of freedom and declarations of agreement between Hong Kong and the UK. It is necessary, therefore, for further policy to ensure the NSL ceases to negatively impact Hong Kong civilians.

During the 2023 52nd session of the United Nations Human Rights Council, you quoted a need to urge China 'to implement the recommendations of the HRC Report'. In doing so, China would abandon the route to suppress Hong Kong civilians and recognise their international obligations. However, China have not done so. It is crucial the UK does not retreat from enforcing more binding policy upon China, to ensure their cooperation.

Furthermore, existing international policy to review and consider the NSL in compliance with the UN is effectively going ignored by China. Review and notice of their non-compliance is proving to not disturb to their foreign and domestic policy, thus Hong Kong continues to be affected by the implementation of strategically political law. The UK must therefore administer policy that actively targets China's administrations and will not be overlooked.

Policy recommendation

The implementation of sanctions wider than that of just defense and military, will ensure Chinese authorities feel an impact beyond just their defense, and foreign policy obligations to Hong Kong. Looking to the US in example, sanctions placed upon China for human right abuses have proved successful. This can be seen in the retreat of Chinese authorities and by the significant counter measures put in place. This report does not seek to recommend sanctions of the magnitude placed by the US but looks to the direction and specificity of their actions for guidance.

Targeted sanctions against individuals and companies prove effective by the US in their specificity. While the UK currently positions with blocking statutes, that allow individuals or companies to not comply with US-based sanctions- this does not display an attitude of disapproval towards China. The UK should not adopt the position of total no-tolerance the US has adopted, but signify agreement by dropping blocking statutes, and upholding the effects of US sanctions within the UK economy.

In 2021, the Chinese Ministry of Commerce issued a Chinese blocking statute requiring Chinese citizens restricted by US sanctions from engaging in economic activities with a third non-sanctioning country to report to the Chinese authorities. It is clear, therefore, from this counter legislation that by dropping current blocking statutes, the UK can engage in placing economic pressure upon China. This can be done by adopting the position of a third non-sanctioning party, while not taking on an international position similar to the US.

It is important that the UK remember its position no longer as sovereign over Hong Kong, and not seek to replicate such power. However, the UK should remember its obligations to the 1984 Declaration, of which China freely entered. Because of this, efforts to cease or limit the effects of the NSL upon rights and freedoms demonstrate a desire to defend and promote democratic values. It is crucial the actions of the UK do not go beyond this. Therefore, the recommended actions will command China to consider its international position before attacking the institutions of a once freer country (Freedom House, 2023). All the while, the UK will not threaten to adopt its historic position as sovereign over Hong Kong.

I hope these recommendations will be pursued after your consideration. It is necessary that the UK honours its position in the 1984 Declaration by ensuring the imposition of the CCP's NSL in Hong Kong does not continue to erode and dismantle a history of human rights and freedoms.

1076 words

List of Abbreviations

CCP- Chinese Communist Party
HRC report- Human Rights Council report
NPCSC- National People's Congress Standing Committee
NSL- National Security Law

Sources

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