



Home Office

# **Country Policy and Information Note**

## **China: Hong Kong national security law**

**Version 3.0**

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# Preface

## Purpose

This note provides country of origin information (COI) and analysis of COI for use by Home Office decision makers handling particular types of protection and human rights claims (as set out in the [Introduction](#) section). It is not intended to be an exhaustive survey of a particular subject or theme.

It is split into 2 parts: (1) an assessment of COI and other evidence; and (2) COI. These are explained in more detail below.

## Assessment

This section analyses the evidence relevant to this note - that is information in the COI section; refugee/human rights laws and policies; and applicable caselaw - by describing this and its inter-relationships, and provides an assessment of, in general, whether one or more of the following applies:

- a person is reasonably likely to face a real risk of persecution or serious harm
- that the general humanitarian situation is so severe that there are substantial grounds for believing that there is a real risk of serious harm because conditions amount to inhuman or degrading treatment as within [paragraphs 339C and 339CA\(iii\) of the Immigration Rules](#) / Article 3 of the [European Convention on Human Rights \(ECHR\)](#)
- that the security situation is such that there are substantial grounds for believing there is a real risk of serious harm because there exists a serious and individual threat to a civilian's life or person by reason of indiscriminate violence in a situation of international or internal armed conflict as within [paragraphs 339C and 339CA\(iv\) of the Immigration Rules](#)
- a person is able to obtain protection from the state (or quasi state bodies)
- a person is reasonably able to relocate within a country or territory
- a claim is likely to justify granting asylum, humanitarian protection or other form of leave, and
- if a claim is refused, it is likely or unlikely to be certifiable as 'clearly unfounded' under [section 94 of the Nationality, Immigration and Asylum Act 2002](#).

Decision makers **must**, however, still consider all claims on an individual basis, taking into account each case's specific facts.

## Country of origin information

The country information in this note has been carefully selected in accordance with the general principles of COI research as set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), April 2008, and the Austrian Centre for Country of Origin and Asylum Research and Documentation's (ACCORD), [Researching Country Origin Information – Training Manual](#), 2013. Namely, taking into account the COI's relevance, reliability, accuracy, balance, currency, transparency and traceability.

The structure and content of the country information section follows a [terms of reference](#) which sets out the general and specific topics relevant to this note.

All information included in the note was published or made publicly available on or before the 'cut-off' date(s) in the country information section. Any event taking place or report/article published after these date(s) is not included.

All information is publicly accessible or can be made publicly available. Sources and the information they provide are carefully considered before inclusion. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information
- whether the COI is consistent with and/or corroborated by other sources.

Multiple sourcing is used to ensure that the information is accurate and balanced, which is compared and contrasted where appropriate so that a comprehensive and up-to-date picture is provided of the issues relevant to this note at the time of publication.

The inclusion of a source is not, however, an endorsement of it or any view(s) expressed.

Each piece of information is referenced in a footnote. Full details of all sources cited and consulted in compiling the note are listed alphabetically in the bibliography.

### **Feedback**

Our goal is to provide accurate, reliable and up-to-date COI and clear guidance. We welcome feedback on how to improve our products. If you would like to comment on this note, please email the [Country Policy and Information Team](#).

### **Independent Advisory Group on Country Information**

The [Independent Advisory Group on Country Information](#) (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to support him in reviewing the efficiency, effectiveness and consistency of approach of COI produced by the Home Office.

The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. The IAGCI may be contacted at:

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Information about the IAGCI's work and a list of the documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's pages of the [gov.uk website](#).

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# Assessment

Updated: 22 June 2022

## 1. Introduction

### 1.1 Basis of claim

1.1.1 Fear of persecution and/or serious harm by the state due to the National Security Law (NSL) being used against them.

### 1.2 Points to note

1.2.1 For guidance and information on those who took part in the pre-June 2020 protests and fear persecution and/or serious harm on that basis, decision makers should refer to the Country Policy and Information Note on [China: Hong Kong protests](#).

1.2.2 For guidance and information on those who took part in the pre-June 2020 protests and fear that the NSL will be used against them, decision makers should use this Country Policy and Information Note. Further country information without assessment is available in the archived Country Policy and Information Note on [China: Hong Kong protests](#).

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## 2. Consideration of issues

### 2.1 Credibility

2.1.1 For information on assessing credibility, see the instruction on [Assessing Credibility and Refugee Status](#).

2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).

2.1.3 In cases where there are doubts surrounding an person's claimed place of origin, decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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**2.2 Exclusion**

- 2.2.1 Decision makers must consider whether there are serious reasons for considering whether one (or more) of the exclusion clauses is applicable. Each case must be considered on its individual facts and merits.
- 2.2.2 If the person is excluded from the Refugee Convention, they will also be excluded from a grant of humanitarian protection (which has a wider range of exclusions than refugee status).
- 2.2.3 For guidance on exclusion and restricted leave, see the Asylum Instruction on [Exclusion under Articles 1F and 33\(2\) of the Refugee Convention](#), [Humanitarian Protection](#) and the instruction on [Restricted Leave](#).

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**2.3 Convention reason(s)**

- 2.3.1 Actual or imputed political opinion.

- 2.3.2 Establishing a convention reason is not sufficient to be recognised as a refugee. The question is whether the person has a well-founded fear of persecution on account of an actual or imputed Refugee Convention reason.
- 2.3.3 For further guidance on the 5 Refugee Convention grounds see the Asylum Instruction, [Assessing Credibility and Refugee Status](#).

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## 2.4 Risk

- 2.4.1 Whether a person will be apprehended by the authorities under the NSL is likely to depend on a person's profile, activities, and background. Those with high profiles and prominent roles are likely to be at higher risk of arrest and prosecution.
- 2.4.2 Where a person fears that the NSL puts them at risk of persecution it would be for them to demonstrate why they feel the law would reasonably likely be applied to them.
- 2.4.3 Where a person is able to demonstrate that they are likely to be arrested and prosecuted under the NSL and the punishment is disproportionately harsh, then the prosecution is likely to amount to persecution. Each case should be considered on its individual merits with the onus on the person to show that the NSL has or would reasonably be used against them.
- 2.4.4 Section 31(3) of the [Nationality and Borders Act 2022](#), which replaced Reg 5(2) and was signed into law on 28 April and comes into force 28 June 2022 (after the time of writing), states that an act of persecution may take the form of:
- (i) a legal, administrative, police, or judicial measure which in itself is discriminatory, or which is implemented in a discriminatory manner.
  - (ii) prosecution or punishment, which is disproportionate or discriminatory.
  - (iii) denial of judicial redress resulting in a disproportionate or discriminatory punishment.
- 2.4.5 While the instruction on [Assessing Credibility and Refugee Status](#) states that while those fleeing prosecution or punishment for a criminal offence are not normally refugees prosecution can be considered persecution if, for example:
- (i) it involves victimisation in the application of the law by the authorities. For example: if it is the vehicle or excuse for the persecution of a person or if only certain ethnic or other groups are prosecuted for a particular offence and the consequences of that discrimination are sufficiently severe; or
  - (ii) the punishment is cruel, inhuman or degrading (including punishment which is out of all proportion to the offence committed).
- 2.4.6 On 30 June 2020 China introduced the National Security Law (NSL) in Hong Kong which came into effect almost immediately. The law was implemented following the widespread protests which took part throughout the second half

of 2019 into 2020 (for more information, see the archived Country Policy and Information Note on [China: Hong Kong protests](#)).

- 2.4.7 The NSL criminalises secession, subversion, terrorism, and collusion with foreign countries. It applies to a person who is a permanent resident of the Hong Kong Special Administrative Region (HKSAR) or an incorporated or unincorporated body, such as a company or an organisation which is set up in the HKSAR, if they or the body commit an offence under the NSL outside the HKSAR (see [Main features of the National Security Law](#)).
- 2.4.8 The NSL also applies to offences committed against the HKSAR from outside the HKSAR by a person who is not a permanent resident of the HKSAR (that is provisions in the NSL suggest it can apply extra-territorially and can therefore be applied anywhere in the world). Slogans such as ‘Liberate Hong Kong, Revolution of Our Times’ are treated as promoting secession, and are illegal under the NSL (see [Main features of the National Security Law](#)).
- 2.4.9 Depending on the level of involvement of the offender and/or the severity of the offence, sentences under the NSL range from short-term detention or ‘restriction’ to life imprisonment. There is a provision in the NSL stating it cannot be applied retrospectively, although evidence about activities conducted before the NSL came into effect on 1 July 2020 have been used in investigations into alleged crimes committed after the law was imposed. (see [Main features of the National Security Law](#), [Retrospective application of the National Security Law and Re-arrests](#)).
- 2.4.10 Following the introduction of the NSL, a new national security office was opened in Hong Kong - The Office for Safeguarding National Security of the Central People’s Government in the Hong Kong Special Administrative Region (CPG Office). The CPG Office is a mainland Chinese organisation and operates independently from the HKSAR Government. The NSL allows security agents from mainland China to operate within this new organisation. The CPG Office rather than the HKSAR has jurisdiction to try offences endangering national security under the NSL in certain circumstances with CPG approval and following a request by the HKSAR Government or the CPG Office itself. This could entail persons charged with offences under the NSL being transferred to mainland Chinese courts for trial under Chinese law, procedures, and penalties (see [Law enforcement powers](#) and [Judiciary](#)).
- 2.4.11 The NSL allows for China to assert legal jurisdiction over “complex”, “serious” or “difficult cases”. Hong Kong does not have an extradition treaty with mainland China, and the NSL does not provide legal or judicial safeguards in such cases, so it is unclear whether any legal process would provide meaningful safeguards for the person’s rights. Once prosecuted through the mainland legal system they may also be subject to mainland sentences (see [Law enforcement powers](#) and [Judiciary](#)).
- 2.4.12 The criminal offences under the NSL are defined broadly and thus create uncertainty about their implementation. While it is not unusual for offences in the national security sphere to be broadly drafted it may increase the likelihood of self-censorship (see [Application of the law](#)).

- 2.4.13 Since its introduction, and at the time of publication, over 183 people have been arrested under the NSL with approx. 100 of those charged under the NSL. There is a high threshold for being granted bail for those who have been charged under the NSL. Most have been denied bail and some who were initially granted bail have had it revoked resulting in lengthy pre-trial detention. In December 2021 the Court of Final Appeal ruled that the higher threshold for bail in NSL cases should apply to all cases designated as involving national security, even where an individual has not been charged under the NSL itself (see [Arrests of activists](#) and [Application of bail](#)).
- 2.4.14 Only a few of those charged have been through the trial process. Most cases are still awaiting trial with many individuals remaining in pre-trial detention. Thirty-four of the 47 opposition activists arrested in January 2021 have remained in custody since February 2021. Reports suggest that their trial may not take place until 2023. Nine individuals have now been convicted under the NSL with sentences ranging from 3.5 to 9 years (see [Judiciary](#), [Application of bail](#), [Re-arrests](#) and [Prosecutions](#)).
- 2.4.15 Some high profile activists, who have links to the pro-democracy movement, have been subjected to multiple prosecutions and re-arrests with some, who are already serving sentences for non NSL convictions, being charged under the NSL whilst in prison (see [Arrests](#), [Re-arrests](#) and [Prosecutions](#)).
- 2.4.16 Article 18 of the NSL requires the HKSAR Department of Justice to establish a specialised prosecution division for the prosecution of national security offences. The prosecutors shall be appointed by the HKSAR Secretary for Justice after obtaining the consent of the Committee for Safeguarding National Security (chaired by the Chief Executive of the HKSAR and which will include consultants from the CPG). It is unusual for prosecutors of a national security division to be appointed in effect by the Executive. This is detrimental to prosecutorial independence and raises the risk of prosecutors taking political decisions in terms of whom to prosecute (see [Judiciary](#)).
- 2.4.17 The NSL provides for some cases to be tried in Hong Kong courts, using a panel of judges selected by the Chief Executive rather than the Chief Justice which would normally be the case. While this does pose questions of judicial independence, basic legal protections that exist in Hong Kong would be maintained in such cases (see [Main features of the National Security Law](#)).
- 2.4.18 Since July 2020 some high-profile activists have left the country and many pro-democracy groups and media outlets have either closed, chosen to disband, or have censored their content. There has also been monitoring and censorship within universities and revision to the national curriculum to promote national security. Several books were removed from public libraries pending a review of whether they breached the NSL (see [Arrests of activists](#) and [Freedom of expression and Pro-democracy groups and NGO's](#)).
- 2.4.19 Since the introduction of the NSL, changes have been made by the Chinese government to legislative electoral system, resulting in disqualification and resignation of pro-democracy legislators in the Legislative Council (LegCo). The government passed a resolution that only patriots should be governing Hong Kong, reducing the number of lawmakers who can be voted in by the electorate, a move the BBC described as 'a continuation of China's plan to

tighten control over Hong Kong'. In December 2021 there was a record low turnout to the first "patriots only" election (see [Political rights](#)).

- 2.4.20 Individuals and groups who publicly call for Hong Kong independence or sanctions on Hong Kong by foreign governments have faced arrest and prosecution under the criminal offences in the NSL. Teachers have been advised that behaviour that elicit discussion of sensitive political issues must be avoided; and authors of what might be viewed as politically sensitive material and sellers of those books could also have the NSL applied to them (see [Application of the law](#)).
- 2.4.21 In cases where the person will be discreet about their political opinion on return, the reasons for such discretion need to be considered in the light of [HJ \(Iran\)](#). A person should not be expected to conceal their political opinion for a fear of persecution. However, if the person would conceal his or her political opinion for reasons other than for a fear of persecution, then the person would have no basis for their claim for international protection. Each case must be considered on its facts.
- 2.4.22 For more information, see also the [6-monthly reports produced by the Foreign and Commonwealth Office](#), which provide a detailed rolling assessment of the situation in Hong Kong.
- 2.4.23 For further guidance on assessing risk, see the Asylum Instruction on [Assessing Credibility and Refugee Status](#).

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## 2.5 Protection

- 2.5.1 Where the person has a well-founded fear of persecution from the state they will not, in general, be able to obtain protection from the authorities.
- 2.5.2 For further guidance on assessing state protection, see the Asylum Instruction on [Assessing Credibility and Refugee Status](#).

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## 2.6 Internal relocation

- 2.6.1 Where the person has a well-founded fear of persecution or serious harm from the state, they are unlikely to be able to relocate to escape that risk.
- 2.6.2 For further guidance on considering internal relocation and factors to be taken into account see the Asylum Instruction on [Assessing Credibility and Refugee Status](#).

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## 2.7 Certification

- 2.7.1 Where a claim is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.
- 2.7.2 For further guidance on certification, see [Certification of Protection and Human Rights claims under section 94 of the Nationality, Immigration and Asylum Act 2002 \(clearly unfounded claims\)](#).

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# Country information

Section 3 updated: 6 June 2022

## 3. Legal context

### 3.1 Introduction of the National Security Law

3.1.1 On 30 June 2020 China introduced the National Security Law (NSL) to Hong Kong<sup>1</sup>. The law came into effect almost immediately. The text of the legislation was kept secret until it had been passed by the Standing Committee of the National People's Congress<sup>2</sup>.

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### 3.2 Main features of the National Security Law

3.2.1 The official translated version of the [National Security Law](#) can be found on the Hong Kong gazette website. Part 6 details the Scope of Application:

'Article 37 This Law shall apply to a person who is a permanent resident of the Hong Kong Special Administrative Region or an incorporated or unincorporated body such as a company or an organisation which is set up in the Region if the person or the body commits an offence under this Law outside the Region.

'Article 38 This Law shall apply to offences under this Law committed against the Hong Kong Special Administrative Region from outside the Region by a person who is not a permanent resident of the Region.

Article 39 This Law shall apply to acts committed after its entry into force for the purpose of conviction and imposition of punishment.<sup>3</sup> (see [Retrospective application of the National Security Law](#))

3.2.2 Under the general principles of the NSL Article 5 states that '...No one shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in judicial proceedings.'<sup>4</sup>

3.2.3 The law criminalises any act of:

- secession - breaking away from the country
- subversion - undermining the power or authority of the central government
- terrorism - using violence or intimidation against people
- collusion with foreign or external forces<sup>5</sup>.

3.2.4 CPIT could find no evidence in the sources consulted (see [Bibliography](#)) to indicate that the main features and scope of the NSL has changed since its introduction in July 2020.

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<sup>1</sup> The Guardian, 'Controversial', 30 June 2020

<sup>2</sup> BBC News, '[Hong Kong's New Security Law explained](#)', 30 July 2020

<sup>3</sup> HKSAR Gazette '[No. 48 Vol. 24 - Government Notice](#)' (part six), 3 July 2020

<sup>4</sup> HKSAR Gazette '[No. 48 Vol. 24 - Government Notice](#)' (part six), 3 July 2020

<sup>5</sup> HKSAR Gazette '[No. 48 Vol. 24 - Government Notice](#)' (part six), 3 July 2020

### 3.3 Law enforcement powers

- 3.3.1 Chapter 5 of the NSL allows for the establishment of a new national security office in Hong Kong (The Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region (CPG Office)). The staff at this office will be able to operate independently from the Hong Kong authorities. Article 55 under chapter 5 allows the CPG office jurisdiction over cases which endanger national security under the new law<sup>6</sup>.
- 3.3.2 The NSL grants the Hong Kong Police Force (HKPF) National Security Department (NSD) new powers which are not conferred by other laws in Hong Kong, these include the ability to search properties, freeze or confiscate assets and engage in covert surveillance. They are also able, in exceptional circumstances, to enter and search premises for evidence without a warrant and restrict people who are under investigation from leaving Hong Kong. The NSL also allows the police to demand information from foreign and Taiwanese political organisations and agents on their Hong Kong related activities<sup>7 8</sup>.
- 3.3.3 According to an Amnesty International report published in June 2021, the new powers mean that '...police can investigate any case they claim to be related to national security with these extensive powers without any regular judicial examination of whether such operations comply with local and international human rights standards.'<sup>9</sup>
- 3.3.4 In November 2020 the Hong Kong Police Force launched a national security department tip-off line for members of the public to report breaches of the NSL<sup>10 11</sup>. Hong Kong Free Press reported in November 2021 that the tip-off line had received over 200,000 messages from the public, an average of almost 550 a day, in its first year of operation<sup>12</sup>.

### 3.4 Application of bail

- 3.4.1 Human Rights Watch's feature on the Hong Kong National Security Law- 'Dismantling a free society' published in June 2021 noted that:
- 'The NSL denies bail to national security suspects unless the judge is convinced that they will no longer commit national security offenses. Over half of the people charged with NSL crimes are now held in custody, depriving them of liberty even though their trial may be months away. The NSL also allows suspects to be deprived of a public trial if state secrets

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<sup>6</sup> HKSAR Gazette '[No. 48 Vol. 24 - Government Notice](#)', 3 July 2020

<sup>7</sup> Guardian, '[Hong Kong police given sweeping powers under new security law](#)', 7 July 2020

<sup>8</sup> Amnesty International, '[Hong Kong: In the Name of National Security...](#)' (page 12), 29 June 2021

<sup>9</sup> Amnesty International, '[Hong Kong: In the Name of National Security...](#)' (page 12), 29 June 2021

<sup>10</sup> BBC News, '[Hong Kong: Snitch hotline gets more than 1,000 calls](#)', 6 November 2020

<sup>11</sup> HKFP, '[Hong Kong police launch national security law tip-off line for WeChat...](#)' 5 November 2020

<sup>12</sup> HKFP, '[Hong Kong national security police hotline received over 200,000 tips...](#)', 5 November 2021

would be disclosed, and of a jury trial if directed by the secretary for justice.<sup>13</sup>

- 3.4.2 The Center for Asian law report ‘Hong Kong’s National Security Law: A Human Rights and Rule of Law Analysis’, published in February 2021 noted that:

‘According to journalists in Hong Kong who have closely followed NSL cases, bail for those arrested under the NSL can be as much as HK\$200,000 [approx. £20,000] or more, and in some high-profile cases bail has been denied. For those who have been granted bail, their travel documents have also been confiscated, meaning that they cannot leave Hong Kong until their NSL arrest is resolved. Individuals out on bail also face the mental and emotional strain of knowing that they could be re-arrested, and also criminally prosecuted, at any time.’<sup>14</sup>

- 3.4.3 The USSD ‘2022 Hong Kong Policy Act Report’ published on 31 March 2022 noted that:

‘The NSL increased the threshold for bail in national security-related cases. Under the NSL, defendants charged with national security-related offenses may not be granted bail unless the judge has sufficient grounds to believe the defendant or suspect will not continue to commit acts endangering national security. Under this higher threshold for bail, many defendants charged under the NSL remain in custody months after their initial detention

‘...In December 2021, the Court of Final Appeal ruled that the NSL’s higher threshold for bail applies to all cases designated as involving national security, which some scholars argued would accelerate the impact of the NSL on other areas of Hong Kong’s legal system.’<sup>15</sup>

- 3.4.4 Aljazeera reported in January 2022 that: ‘The December 2021 decision by the city’s highest court ruled that sedition, an old crime found in other common law jurisdictions, is essentially a security crime and therefore, bail decisions should be handled as other national security cases.

‘In making that argument, the judges denied bail to speech therapist, Sidney Hau Yi Ng. She stands accused of an attempt “to bring into hatred or contempt or to excite disaffection” against the government over a series of illustrated children’s books involving sassy cartoon sheep facing off against a group of wolves.’<sup>16</sup>

- 3.4.5 The below table from ChinaFile, a not-for-profit online magazine published by the Center on U.S.-China Relations at Asia Society, shows the number of individuals granted bail following charges under the NSL between 1 July 2020 and 28 March 2022<sup>17</sup>. The data does not indicate whether it includes those who may have been initially bailed and had bail subsequently revoked (see also [Re-arrests](#)).

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<sup>13</sup> HRW, ‘[Dismantling a free society](#)’, 25 June 2021

<sup>14</sup> Center for Asian Law, ‘[Hong Kong’s National Security Law: A Human Rights...](#)’, 23 February 2021

<sup>15</sup> USSD, ‘[2022 Hong Kong Policy Act Report](#)’, 31 March 2022

<sup>16</sup> Al Jazeera, ‘[Assumed as criminals’: Hong Kong defendants find bail elusive](#)’, 27 January 2022

<sup>17</sup> ChinaFile, ‘[Tracking the Impact of Hong Kong’s National Security Law](#)’, Last updated 5 April 2022



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### 3.5 Judiciary

3.5.1 Article 18 of the National Security Law states that: ‘The Department of Justice of the Hong Kong Special Administrative Region shall establish a specialised prosecution division responsible for the prosecution of offences endangering national security and other related legal work. The prosecutors of this division shall be appointed by the Secretary for Justice after obtaining the consent of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region.’<sup>18</sup>

3.5.2 BBC reported that the law provides

- that trials can be held in secret (Article 41) and without a jury (Article 46)
- that judges can be handpicked (Article 44) by Hong Kong's Chief Executive, who is answerable directly to Beijing
- for a reversal of the presumption that suspects will be granted bail (Article 42)<sup>19</sup>.

3.5.3 BBC news noted that ‘Most cases will be handled in Hong Kong, but the mainland can take over "complex", "serious" or "difficult" cases.’<sup>20</sup> NPR also reported that ‘In "complex" and "serious" cases or those in which a security threat is imminent, China will be able to assert complete legal jurisdiction.’ The article further noted that ‘...The law empowers China to set up a "National Security Committee" to oversee the investigation and prosecution of any violations. This committee is subject neither to judicial review nor Hong Kong law — meaning it operates without any local checks or balances’.<sup>21</sup> Al Jazeera explained that ‘The full text of the law gave three scenarios when China might take over a prosecution: complicated foreign interference cases, "very serious" cases and when national security faces "serious and realistic threats".’<sup>22</sup>

<sup>18</sup> HKSAR Gazette [‘No. 48 Vol. 24 - Government Notice’](#), 3 July 2020

<sup>19</sup> BBC, [‘Hong Kong's new security law: Why it scares people’](#), 1 July 2020

<sup>20</sup> BBC, [‘Hong Kong: First arrests under 'anti-protest' law as handover marked’](#), 1 July 2020

<sup>21</sup> NPR, [‘5 Takeaways From China's Hong Kong National Security Law’](#), 1 July 2020

<sup>22</sup> Al Jazeera, [‘Details of China's national security law for Hong Kong unveiled’](#), 1 July 2020

- 3.5.4 Human Rights Watch’s feature on the Hong Kong National Security Law- ‘Dismantling a free society’ published in June 2021 noted that: ‘The National Security Law establishes a separate track for processing those accused of political crimes. People accused of NSL offenses are investigated by a special department of the Hong Kong police, handled by prosecutors selected by the secretary for justice, and tried by judges handpicked by the chief executive. Their cases are overseen by mainland security authorities with a track record of severe human rights abuses.’<sup>23</sup>
- 3.5.5 In July 2021 Vox reported that: ‘There are also growing concerns about defendants’ right to counsel, and whether those charged can select their legal representation. A national security case involving Hong Kong activist Andy Li raised questions as to who had appointed his attorney. The fear is that prosecutors themselves are perhaps appointing defence attorneys, an obvious conflict of interest and another way to limit the outcomes in any national security trial.’<sup>24</sup>
- 3.5.6 In October 2021 District Judge Sham Siu-man applied for early retirement and left Hong Kong for the United Kingdom<sup>25</sup>. He had reportedly faced criticism for acquitting protesters<sup>26 27</sup>. In March 2022 HKFP reported that: ‘Two British judges sitting on Hong Kong’s highest court have resigned, citing the national security law and an erosion of political freedom.’<sup>28</sup>
- 3.5.7 An Opinion piece in the South China Morning Post in April 2022 noted that: ‘...the delay experienced by 47 opposition activists accused of subversion under the national security law is longer than would normally be expected. They have already been waiting more than a year and their trial is still not in sight.
- ‘The slow progress prompted a judge this week [April 2022] to call for action. Esther Toh Lye-ping was giving her reasons for refusing bail to one of the defendants. It was the second time he had applied. While the judge did not agree that the high threshold for granting bail imposed by the security law had been met, she expressed concern about the “long delay” in proceedings. The court sympathised with a submission from the defendant’s lawyer that the long wait “militates against fairness to her client”.
- ‘The judge’s remarks should serve as a wake-up call. Thirty-four of the defendants in this big, unprecedented case are in jail while awaiting trial. It was suggested during the hearing that the case may not be heard until the middle of next year. By then, unless granted bail, they will have been in custody for more than two years.’<sup>29</sup> (see also [Application of bail](#))

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<sup>23</sup> HRW, ‘[Dismantling a free society](#)’, 25 June 2021

<sup>24</sup> Vox, ‘[China’s national security legislation is destroying Hong Kong’s rule of law](#)’, 1 July 2021

<sup>25</sup> The Standard, ‘[First judge leaves city for UK](#)’, 11 October 2021

<sup>26</sup> The Standard, ‘[First judge leaves city for UK](#)’, 11 October 2021

<sup>27</sup> HKW, ‘[HKW Patron Lord Alton of Liverpool calls for a further review of the...](#)’, 14 October 2021

<sup>28</sup> HKFP, ‘[Two British judges resign from Hong Kong’s top court, citing security law...](#)’, 30 March 2022

<sup>29</sup> SCMP, ‘Backlog of cases must be cleared so justice is not ...’, 29 April 2022 (available on request)

### 3.6 Retrospective application of the National Security Law

3.6.1 In August 2020 Hong Kong Free Press (HKFP), published an article produced by AFP news that stated that:

‘Hong Kong police are using the past words and deeds of government critics to bolster investigations under the city’s sweeping new security law, despite the legislation not being retroactive. The law, described by China as a “sword” hanging over the heads of its pro-democracy opponents, was imposed on the financial hub by Beijing in June, with authorities promising it would not apply to past transgressions.

‘But details from more than 20 arrests so far show actions including political speeches and online posts made before the law was introduced have formed a key part of investigations, helping police obtain search warrants, conduct raids and make arrests.

“They will go back into your history and look for connections,” one lawyer involved in national security investigations told AFP, requesting anonymity to speak freely, adding police were empowered to use past acts as “background information” for both investigations and upcoming trials.’<sup>30</sup>

3.6.2 Reuters noted that: ‘The legislation is not retrospective, but prosecutors can use actions from before its implementation as evidence.’<sup>31</sup>

3.6.3 HKFP reported in August 2021 that:

‘The Hong Kong authorities have evaded questions over whether the national security law is to be applied retrospectively following comments from the police chief. Last week, Commissioner of Police Raymond Siu told state-backed Ta Kung Pao that the since-disbanded Civil Human Rights Front (CHRF) might have violated the security law for “organising a series of large-scale, illegal protests” in recent years. It is despite the fact that the coalition has not organised any rallies since the security law was enacted last June 30.

‘Chief Executive Carrie Lam told the UN last June that the law would “have no retrospective effect.” However, when HKFP asked Lam’s office if she stood by her comments, the questions were referred to the police for a response. “In conducting any operation, Police will act on the basis of actual circumstances and according to the law,” a spokesperson told HKFP, without addressing the questions over whether the law was being applied retroactively.’<sup>32</sup>

3.6.4 The US State Department ‘2021 Country Reports on Human Rights Practices: China- Hong Kong’ (USSD 2021 report) published in April 2022 noted that:

‘At the time of its passage, the SAR and PRC claimed the NSL was not retroactive. Despite that claim, international observers have noted that the police National Security Department, created by the NSL, used its sweeping investigative powers to find evidence of “sedition” prior to the establishment

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<sup>30</sup> HKFP (AFP News), ‘[Hong Kong police visit local newsroom, sift through past...](#)’, 28 August 2020

<sup>31</sup> Reuters, ‘[HK’s Apple Daily raided by 500 officers over national security law](#)’, 17 June 2021

<sup>32</sup> HKFP, ‘[Hong Kong authorities evade questions over ‘retrospective’ security...](#)’, 18 August 2021

of the NSL and charge individuals under both the NSL and colonial-era sedition laws. Some of the evidence cited included individuals' opinion posts online'.<sup>33</sup>

3.6.5 The US China Economic and Security Review Commission's annual report for 2021 noted that:

'The National Security Law presents unique challenges to the rule of law by enabling prosecutors to penalize defendants for conduct that predates its implementation. Hong Kong Chief Executive Carrie Lam Yuet-ngor pledged in a June 2020 address to the UN Human Rights Council that the law would not be applied retroactively, but the Hong Kong government has in effect done so by using activity the National Security Law prohibits as a basis for prosecution under other laws.

'...In order to prosecute activists on the basis of their now-illegal prodemocracy views, Hong Kong authorities use older laws to charge defendants for conduct that was not illegal before the National Security Law took effect. In August 2021, authorities used an older anticorruption ordinance to justify prosecuting a musician for a 2018 performance at a campaign rally. In September 2020, authorities cited a colonial-era sedition law that had not been used in decades, but was technically still in effect, to charge a suspect for conduct that partially predated the National Security Law. In addition to using this kind of retroactive prosecution, Hong Kong's Commissioner of Police, Raymond Siu, suggested in August 2021 that outright retroactive charges explicitly under the National Security Law itself were still possible, though the government has not yet pursued any.'<sup>34</sup>

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Section 4 updated: 16 May 2022

## 4. Timeline of main events

- 4.1.1 For a timeline of events since the National Security Law was introduced see [Reuters](#)<sup>35</sup> and/or [Human Rights in China \(HRIC\)](#), which describes itself as 'a Chinese NGO with offices in New York and Hong Kong'<sup>36</sup>.

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Section 5 updated: 6 June 2022

## 5. Application of the law

### 5.1 Arrests of activists

- 5.1.1 For more detail on arrests that took place before September 2021 please see [previous versions](#) of this CPIN.

- 5.1.2 The below table from ChinaFile shows the number of arrests that have taken place since the introduction of the NSL on 1 July 2020 and 28 March 2022<sup>37</sup>.

<sup>33</sup> USSD, '[2021 Country Report on Human Rights Practices- Hong Kong](#)', 12 April 2022

<sup>34</sup> USCC, '[Hong Kong's Government Embraces Authoritarianism - Annual Report](#)', November 2021

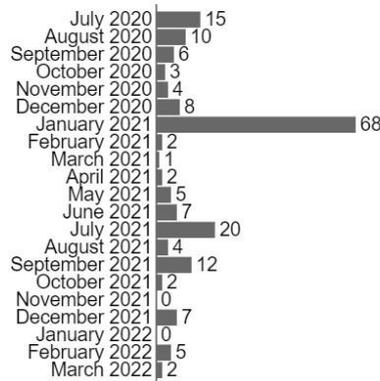
<sup>35</sup> Reuters, '[The impact of the national security law on Hong Kong one year on](#)', 1 July 2021

<sup>36</sup> HRIC, '[Hong Kong Timeline 2019-2021: Anti-Extradition...](#)', last updated 16 May 2022

<sup>37</sup> ChinaFile, '[Tracking the Impact of Hong Kong's National Security Law](#)', Last updated 5 April 2022

### Arrests by Month

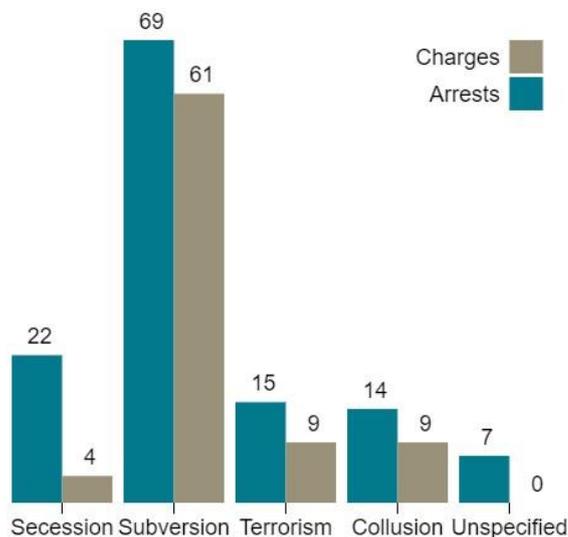
Individuals arrested by the NSD or under the NSL



Total individuals arrested: 183  
For people arrested multiple times, only the first arrest is counted here.

5.1.3 The following table from the same source, ChinaFile, shows the breakdown of which offences under the NSL individuals have been arrested and charged between 1 July 2020 and 28 March 2022 <sup>38</sup> (see also [Prosecutions](#)).

### Number of Individuals Arrested and/or Charged, by Type of NSL Provision



Individuals charged under multiple provisions are counted multiple times in this chart, once for each provision.

5.1.4 In November 2021 HKFP reported that 4 people, between the ages of 61-85, were arrested under the national security law on suspicion of “seditious intent” after they were reportedly displaying a banner with the words “I want

<sup>38</sup> ChinaFile, [‘Tracking the Impact of Hong Kong’s National Security Law’](#), Last updated 5 April 2022

genuine universal suffrage”, a central slogan of the 2014 Umbrella Movement<sup>39</sup>.

- 5.1.5 In December 2021 over 200 national security police raided the offices Stand News, a non-profit online news outlet with a pro-democracy slant. Six current and former senior staff members, including the acting editor, were arrested on charges of conspiring to publish seditious publications<sup>40</sup>.
- 5.1.6 In an article from 28 January 2022 Xinhuanet, a state-run news agency<sup>41</sup>, noted that Hong Kong police had reported 162 people had been arrested under the national security law since it came into effect in June 2020. The article went on to note that over 100 of those who had been arrested had been prosecuted<sup>42</sup> (see also [Prosecutions](#)).
- 5.1.7 In February 2022 HKFP reported that 75-year-old pro-democracy activist Koo Sze-yiu was arrested<sup>43</sup> and later charged with “attempting to do or making any preparation to do an act or acts with seditious intention” under the national security law<sup>44</sup>. Koo had reportedly been planning to demonstrate outside China’s office in Hong Kong in protest against China’s Winter Olympics and to raise awareness of political activists who had already been detained. Koo has previously been jailed 11 times and was most recently released from prison in July 2021<sup>45</sup>.
- 5.1.8 In February 2022 pro-democracy singer-activist Tommy Yuen was arrested on suspicion of acting with seditious intent and money laundering. Yuen was reported to have performed a song in an online concert in November 2021 which contained the slogan “Liberate Hong Kong, revolution of our times”. The money laundering charge appeared to relate to funds which the singer had obtained through Facebook after he called on people to support protesters apprehended for rioting<sup>46</sup>.
- 5.1.9 The USSD ‘2022 Hong Kong Policy Act Report’, published on 31 March 2022 noted that:

‘Hong Kong authorities continued efforts to restrict the freedom of expression of individuals overseas under both the NSL and other legislation, including by issuing arrest warrants purely based on extraterritorial speech. There are reportedly NSL-related arrest warrants against 30 individuals residing outside Hong Kong, including U.S. citizens. Although reported in PRC state-controlled media, Hong Kong authorities have refused to acknowledge the existence of these warrants.’<sup>47</sup>

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<sup>39</sup> HKFP, [‘Hong Kong police arrest 4 for ‘seditious intent’ over banner calling for...’](#), 2 November 2021

<sup>40</sup> HKFP, [‘Over 200 Hong Kong national security police raid Stand News...’](#), 29 December 2021

<sup>41</sup> BBC News, [‘China profile – Media’](#), 6 March 2018

<sup>42</sup> Xinhua, [‘162 arrested for violating national security law in Hong Kong by Jan. 25’](#), 28 January 2022

<sup>43</sup> HKFP, [‘Hong Kong national security police arrest veteran democracy activist...’](#), 4 February 2022

<sup>44</sup> HKFP, [‘75-year-old Hong Kong activist facing sedition charge denied bail after...’](#), 7 February 2022

<sup>45</sup> HKFP, [‘Hong Kong national security police arrest veteran democracy activist...’](#), 4 February 2022

<sup>46</sup> HKFP, [‘Hong Kong singer arrested on suspicion of acting with seditious intent...’](#), 15 February 2022

<sup>47</sup> USSD, [‘2022 Hong Kong Policy Act Report’](#), 31 March 2022

- 5.1.10 In April 2022 6 people were arrested for suspected sedition under the national security law after they were reported as causing a nuisance at court hearings in December and January<sup>48</sup>.
- 5.1.11 In May 2022 4 people were arrested under the national security law for being associated with the now defunct 612 Humanitarian Relief Fund (the 612 Humanitarian Relief Fund helped protesters during the 2019 anti-extradition protests). The 4 were Cardinal Joseph Zen, Cantopop singer and actor Denise Ho, ex-legislator Margaret Ng, and academic Dr Hui Po Keung. According to the Hong Kong police the group was suspected of appealing to foreign forces to impose sanctions on Hong Kong<sup>49 50</sup>.

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## 5.2 Re-arrests

- 5.2.1 In January 2021 53 pro-democracy activists were arrested for their involvement in an unofficial ballot to select candidates for a primary election<sup>51</sup>. Most were later released but in February 2021 47 of them were re-arrested and charged under the National Security Law with “conspiracy to commit subversion”<sup>52</sup>. Many of those arrested, who were released on bail, have since had their bail revoked for violating bail conditions<sup>53 54</sup> (for more information on these arrests please see [previous versions](#) of this CPIN).
- 5.2.2 Amnesty International’s report ‘Hong Kong: In the Name of National Security’ published on 29 June 2021 noted that:

‘In September 2020, activist Tam Tak-chi was arrested and charged with 14 counts of offences under the provisions of the Hong Kong Sedition Ordinance and the Public Order Ordinance (both of which are Hong Kong statutes separate from the NSL). Although Tam was charged with acts alleged to have taken place prior to the enactment of the NSL and faced no charges under that law at that time, the NSD [National Security Department] used its extensive power to investigate his case.’<sup>55</sup>

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## 5.3 Prosecutions

- 5.3.1 For more details of prosecutions that took place before September 2021 please see [previous versions](#) of this CPIN.
- 5.3.2 In data published by ChinaFile, out of 183 people arrested between 1 July 2020 and 28 March 2022 by the National Security Department (NSD) or under the NSL, 113 (61.7%) were charged and 9 (4.9%) were convicted<sup>56</sup>. The source did not provide information on the number of trials that have taken place or the number of acquittals.

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<sup>48</sup> Reuters, ‘[Hong Kong arrests six activists on accusation of sedition](#)’, 6 April 2022

<sup>49</sup> BBC News, ‘[Hong Kong cardinal Joseph Zen arrested under China’s security law](#)’, 12 May 2022

<sup>50</sup> HKFP, ‘[Cardinal Zen, barrister Margaret Ng and others released following four...](#)’, 12 May 2022

<sup>51</sup> BBC News, ‘[National security law: Hong Kong rounds up 53 pro-democracy...](#)’, 6 January 2021

<sup>52</sup> Metro, ‘[Hong Kong re-arrests dozens of pro-democracy activists under...](#)’, 28 February 2021

<sup>53</sup> HKFP, ‘[National security: ex-Hospital Authority union chief remanded in custody...](#)’, 8 March 2022

<sup>54</sup> Reuters, ‘[Hong Kong activist’s bail revoked for remarks ‘endangering national...](#)’, 13 January 2022

<sup>55</sup> Amnesty International, ‘[Hong Kong: In the Name of National Security...](#)’ (page 12), 29 June 2021

<sup>56</sup> ChinaFile, ‘[Tracking the Impact of Hong Kong’s National Security Law](#)’, Last updated 5 April 2022

- 5.3.3 On 25 October 2021 Ma Chun-man became the second person convicted under the national security law after he was found to have chanted slogans such as “Hong Kong independence, the only way out” on 20 occasions between August and November 2020<sup>57</sup>. In November 2021 he was sentenced to five years and nine months in prison<sup>58</sup>.
- 5.3.4 In November 2021 Deutsche Welle reported that the Tony Chung had been convicted under the national security law and sentenced to 43 months in prison for secession and money laundering. Chung is the youngest person so far to be convicted under the law and was the former leader of Hong Kong pro-independence youth group Student Localism<sup>59</sup>.
- 5.3.5 HKFP reported, on 24 December 2021, that following 3 months in custody awaiting trial Tseung Chau, a 16-year-old boy charged under the national security law with conspiracy to incite subversion, was granted bail. Tseung, a member of the group Returning Valiant, was one of 7 charged with inciting others to overthrow/undermine the Hong Kong and Chinese governments, 3 of the others were also minors aged 16. According to the report in HKFP in order to be granted bail Tseung had to satisfy a list of conditions stricter than those faced by others in national security cases<sup>60</sup>.
- 5.3.6 In January 2022 it was reported that of those arrested under the national security law, since June 2020 until January 2022, over 100 had been charged<sup>61 62</sup>. ChinaFile noted that between 1 July 2020 and 28 March 2022 113 people had been charged under the national security law<sup>63</sup>.
- 5.3.7 Reuters reported in January 2022 that Tong Ying Kit, the first person to be convicted under the national security law, had dropped his decision to appeal his conviction. Tong Ying Kit had been found guilty of terrorist activities and inciting secession after he was arrested for driving his motorbike into police while carrying a flag with the slogan “Liberate Hong Kong- Revolution of our times”, he was sentenced to 9 years in prison. At the time of conviction his lawyer indicated he would be appealing but following the announcement of the decision not to appeal Reuters reported that his lawyer had no idea why he had decided not to appeal<sup>64</sup>.
- 5.3.8 The USSD ‘2022 Hong Kong Policy Act Report’ published on 31 March 2022 noted that:

‘During the covered period [March 2021 through March 2022], Hong Kong prosecutors and police increasingly designated cases as related to national security even if they did not involve alleged violations of the NSL itself, including prosecutions under the colonial-era sedition statute. Authorities argued that NSL procedures regarding bail, the use of a designated national security judge, and limits on the right to trial by jury also apply to these cases, effectively widening the applicability of the NSL.

<sup>57</sup> ABC News, [‘Hong Kong convicts second person under national security law’](#), 26 October 2021

<sup>58</sup> BBC News, [‘Hong Kong’s ‘Captain America’ protester jailed under national...’](#), 11 November 2021

<sup>59</sup> Deutsche Welle, [‘Hong Kong sentences youngest person yet under national...’](#), 23 November 2021,

<sup>60</sup> HKFP, [‘16-year-old national security defendant granted bail by Hong Kong...’](#), 24 December 2021

<sup>61</sup> RFA, [‘More than 100 charged under Hong Kong’s national security law amid...’](#), 27 January 2022

<sup>62</sup> Xinhua, [‘162 arrested for violating national security law in Hong Kong by Jan. 25’](#), 28 January 2022

<sup>63</sup> ChinaFile, [‘Tracking the Impact of Hong Kong’s National Security Law’](#), Last updated 5 April 2022

<sup>64</sup> Reuters, [‘First person convicted under Hong Kong’s national security law...’](#), 13 January 2022

‘...Prosecutors argued in multiple court hearings that the phrase “Liberate Hong Kong, Revolution of Our Times,” a common slogan of the 2019 pro-democracy protests, contained an inherent meaning of support for Hong Kong independence and/or a change in Hong Kong’s constitutional status. During the covered period, courts convicted two individuals of violating the NSL on that basis. Scholars and activists have argued the courts’ decisions failed to take into consideration protections for freedom of speech or expression enshrined in the Basic Law, the International Covenant on Civil and Political Rights, and the NSL itself.’<sup>65</sup>

- 5.3.9 In April 2022 Lui Sai-yu, who had been in detention since his arrest in September 2020, was convicted under the national security law for inciting secession for calling for independence from China in posts on the Telegram messaging service. He was initially sentenced by the judge to three years and 8 months after he pled guilty at the earliest opportunity. This was later increased to 5 years after the prosecutor in the case stated that as the crime was of a serious nature it should fall below the minimum sentence of 5 years<sup>66 67</sup>.
- 5.3.10 In May 2022 Jimmy Lai, founder of the now defunct pro-democracy newspaper Apple Daily, was in court facing additional charges under the NSL. Jimmy Lai is already in prison having been convicted under charges related to the 2019 protests. He is also awaiting trial on separate fraud charges linked to the Apple Daily headquarters<sup>68</sup>.
- 5.3.11 See also [Law enforcement powers](#)

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#### 5.4 Treatment of family members of persons of interest

- 5.4.1 In January 2021 Kyodo News reported that the family of Joshua Wong had fled to Australia. Joshua Wong is currently serving a sentence for participation in unauthorised protests and also awaiting trial on charges under the NSL<sup>69</sup> (see the [previous versions](#) of this CPIN for further details on Joshua Wong).
- 5.4.2 In January 2021 VOA news reported that:
- ‘A pro-democracy activist in Hong Kong is the latest to disclose that Chinese authorities questioned his family and friends in mainland China for information about him. Yat-Chin Wong, 19, is the organizer of StudentPoliticism, a political group in Hong Kong whose aim is to promote “core values such as democracy and liberty and our sentiments to Hong Kong.” The teenager was arrested twice last year, while national security officers warned group members about their continued activism.
- ‘Wong, who spent his childhood in China before moving to Hong Kong while in primary school, revealed that his relatives in Sichuan had recently been approached for questioning. “I was told by my family in the past few days

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<sup>65</sup> USSD, ‘[2022 Hong Kong Policy Act Report](#)’, 31 March 2022

<sup>66</sup> Reuters, ‘[Hong Kong student jailed for five years under national security law](#)’, 29 April 2022

<sup>67</sup> HKFP, ‘[Security law: Hong Kong student gets 5 years jail for incitement of...](#)’, 29 April 2022

<sup>68</sup> HKFP, ‘[Hong Kong media tycoon Jimmy Lai to stand trial in High Court over...](#)’, 17 May 2022

<sup>69</sup> Kyodo News, ‘[Family of jailed Hong Kong activist Joshua Wong moves to...](#)’ 21 January 2021

that my relatives, friends and even classmates from primary school in China were questioned by public authorities. They wanted to know my plans and whereabouts. They told my relatives and friends not to keep in contact with me," Wong told VOA. After learning about the questionings, Wong severed ties with his family and friends.<sup>70</sup>

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Section 6 updated: 10 May 2022

## 6. Freedom of expression

### 6.1 Press freedom

#### 6.1.1 In June 2021 BBC News reported that:

'...Chinese officials have repeatedly said media freedoms in Hong Kong are respected but are not absolute. Over the past weekend [26-27 June 2021], Hong Kong's police chief Raymond Siu even suggested further legislation that would have an impact on the media. Explicitly blaming the media for people's mistrust of authorities, he said he would welcome a fake news law that would allow the police to "bring these people to justice".

'In May, the Hong Kong Journalists' Association released a report saying the territory's press freedom index for journalists had hit a record low, warning that "after the enactment of Hong Kong National Security Law, the Government continued to suppress the news media."

"Of the 367 responding journalists, 91% said press freedom in Hong Kong had worsened compared to a year ago," the report found. "As many as 85% of the responding journalists agree with comment that the Hong Kong government is the source of suppressing press freedom."<sup>71</sup>

#### 6.1.2 On 17 June 2021 500 Hong Kong police raided the headquarters of Apple Daily, a pro-democracy newspaper in Hong Kong. According to a report in Forbes at least 7 of the newspaper's employees were arrested, 44 of the newspaper's computers were taken and security forces froze bank accounts belonging to the paper. This was not the first time the paper had been raided. In August 2020, following implementation of the national security law, police raided Apple Daily and arrested its founder Jimmy Lai (see the [previous versions](#) of this CPIN for further details of arrests and prosecutions related to Apple Daily). Following the raid in June 2021 the board of Next Digital announced it would no longer be publishing Apple Daily<sup>72</sup>.

#### 6.1.3 Article 19's blog article on the NSL noted that:

'...The broadcaster Radio Television Hong Kong (RTHK) has faced increasing censorship and control. In March 2021, a new director, Patrick Li, imposed a number of repressive new policies requiring his prior approval for broadcast content and fines on employees whose programs are deemed to violate the NSL. A number of programs have been axed. In May 2021, RTHK confirmed that it was removing hundreds of old videos from YouTube and Facebook, and in late June two popular political talk shows were abruptly

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<sup>70</sup> VOA News, '[Hong Kong Activists Feel Pressure as Chinese Authorities ...](#)', 26 January 2021

<sup>71</sup> BBC News, '[Hong Kong pro-democracy media buckles under China pressure](#)', 28 June 2021

<sup>72</sup> Forbes, '[The Closure Of Apple Daily: Another Nail In The Coffin For Freedom In...](#)', 1 July 2021

terminated. Right before the NSL came into effect, RTHK suspended the political satire Headliner, on air since 1989, following an episode making fun of the Hong Kong police. Meanwhile, since April 2021, RTHK has begun broadcasting a program hosted by Hong Kong Chief Executive Carrie Lam four times a day.<sup>73</sup>

- 6.1.4 In October 2021 International Federation of Journalists reported that employees of RTHK had been ‘...instructed to support the Hong Kong government in safeguarding national security.’ The article went on to note that ‘...programs must not provoke or deepen hatred, discrimination, or hostility towards the governments in Beijing and Hong Kong. Those who failed to observe the new policies faced “disciplinary action”.’<sup>74</sup>
- 6.1.5 In November 2021 online media outlet DB Channel announced they would be closing their Hong Kong office after the channels co-founder was denied bail pending their trial on charges under the national security law. DB Channel was founded during the 2019 protests<sup>75</sup>.
- 6.1.6 The Stand News, an online news source with a pro-democracy slant, announced in December 2021 that they were halting their operations, their website was subsequently shut down and social media feeds were wiped. This follows a police raid where 7 members of staff were arrested (see [Arrests of activists since September 2021](#)) and HK\$61million in assets were frozen<sup>76</sup>.
- 6.1.7 On 4 January 2022 Hong Kong independent news website Citizen News closed<sup>77</sup>. The news was announced on social media with the news outlet commenting that changes in Hong Kong had made it difficult for them to continue to operate<sup>78</sup>. Forbes reported that: ‘Citizen News Chief Editor Daisy Li said in a press conference that sometimes even she can’t determine whether an article or comment contravenes the law.’<sup>79</sup> Citizen News was established in 2017 and was one of the of the last few remaining Chinese language pro-democracy publications in Hong Kong<sup>80</sup>.
- 6.1.8 Hong Kong Watch reported in February 2022 that since the introduction of the National Security Law 18 journalists have been arrested and in the 6 months prior to the Hong Kong Watch article 3 news publication have also been forced to close<sup>81</sup>.
- 6.1.9 In February 2022 the Guardian reported that: ‘About 20 media workers, executives and defenders have been arrested or detained since the implementation of the national security law in June 2020, including high-profile figures such as the Apple Daily founder, Jimmy Lai. ...Since the

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<sup>73</sup> Article 19, ‘[Blog: A year of creeping darkness under the National Security Law in...](#)’, 29 June 2021

<sup>74</sup> IFJ, ‘[Hong Kong: RTHK staff ordered to support “national security”](#)’, 1 October 2021

<sup>75</sup> HKFP, ‘[Online media outlet DB Channel shuts operations in Hong Kong as...](#)’, 5 November 2021

<sup>76</sup> HKFP, ‘[Stand News closes, content deleted following arrests and police raid...](#)’, 29 December 2021

<sup>77</sup> BBC News, ‘[Hong Kong: Pro-democracy website Citizen News is latest to close](#)’, 3 January 2022

<sup>78</sup> Forbes, ‘[Independent Hong Kong News Site To Close Over Safety Concerns...](#)’, 3 January 2022

<sup>79</sup> Forbes, ‘[Independent Hong Kong News Site To Close Over Safety Concerns...](#)’, 3 January 2022

<sup>80</sup> BBC News, ‘[Hong Kong: Pro-democracy website Citizen News is latest to close](#)’, 3 January 2022

<sup>81</sup> Hong Kong Watch, ‘[Hong Kong Watch launches global campaign to support...](#)’, 3 February 2022

introduction of the national security law, some foreign journalists have left, or been denied visas.<sup>82</sup>

- 6.1.10 Reporters without borders article '[RSF accounts two years of government assault on Hong Kong's press freedom](#)' details a timeline of events that have affected press freedom since the introduction of the national security law<sup>83</sup>.

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## 6.2 Academic freedom

- 6.2.1 A HRW report from June 2021 noted that: 'The Hong Kong Leisure and Cultural Services Department has removed at least 34 books from all branches of public libraries since the enactment of the National Security Law. The department said they are 'reviewing' these books, which includes those written by pro-democracy leader Joshua Wong, Chinese exiled writer Liao Yiwu, and others critical of the Chinese government, for potential breach of the NSL.'<sup>84</sup>

- 6.2.2 Article 19's blog article on the NSL noted that:

'At schools and universities, education secretary Kevin Yeung has declared that "no one, including students, should play, sing and broadcast songs which contain political messages or hold any activities to express their political stance." Students are banned from singing or playing music related to the pro-democracy anthem "Glory to Hong Kong".

'Pro-China "patriotic education" has been enforced, while several schools have established task forces to monitor and report on teachers' behaviour both in and outside the classroom for suspected violations of the NSL.'<sup>85</sup>

- 6.2.3 In July 2021 the Economist noted that:

'Academic freedom had started to suffer well before the law was enacted just over a year ago. In 2010 Hong Kong's universities were rated a, meaning they were among the world's freest, on the Academic Freedom Index, a ranking developed by several universities and think-tanks in Europe. By 2018 they had fallen to the middle band, c. They are now in the d category, only slightly better than mainland China's, which have the lowest grade, e. In the past five years the decline in Hong Kong has been sharper than in most other countries.

'One reason for this is self-censorship. Some lecturers now avoid sensitive topics, worrying that their colleagues or students will report on what is said in the classroom. Scholars who teach and write about subjects such as Hong Kong, China, civil disobedience and democracy are particularly cautious. "It's impossible to guess where the red line is anyway, because there is no clear one," says an academic who teaches modern Chinese history. She says the security law has created a problem for those who specialise in such areas: how to encourage objective study of sensitive issues while protecting

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<sup>82</sup> The Guardian, '[Hong Kong democracy and media freedom has 'entered...'](#)', 10 February 2022

<sup>83</sup> RSF, '[RSF accounts two years of government assault on Hong Kong's press...](#)', 23 March 2022

<sup>84</sup> HRW, '[Dismantling a free society](#)', 25 June 2021

<sup>85</sup> Article 19, '[Blog: A year of creeping darkness under the National Security Law in...](#)', 29 June 2021

students and other faculty members from becoming victims of the security law.’<sup>86</sup>

6.2.4 In October 2021 the student union at the Chinese University of Hong Kong (CUSU) dissolved. The union cited increased difficulties in functioning after the university severed ties with the group in February 2021<sup>87</sup>.

6.2.5 The US China Economic and Security Review Commission’s annual report for 2021 noted that:

‘Hong Kong authorities have ordered sweeping revisions to educational curricula to promote national security, infusing nationalism and revisionist history into even seemingly apolitical topics. These revisions mark a victory for the Hong Kong government in its years long campaign to impose “patriotic education” to increase popular support for the CCP. In February 2021, Hong Kong’s Education Bureau issued new guidelines on promoting national security education in accordance with article 10 of the National Security Law.

‘...The curricula changes require educators to actively promote the CCP’s concept of national security in addition to censoring prohibited acts, creating a culture of fear and distrust between educators and students

‘...Hong Kong authorities are now openly hostile to student unions, which they view as encouraging opposition to the government, and university administrations have begun to constrain their operations. In addition to punishing students for political activities such as participating in prodemocracy protests and even mourning a student who fell to his death during a protest in 2019, university administrators in some institutions have impeded student unions from collecting dues.

‘...Officials have signaled that complying with the new rules could affect universities’ funding, emphasizing the requirement to warn students about “foreign interference” and train faculty in national security education. Publicly funded universities are especially vulnerable to this pressure to step up national security training.’<sup>88</sup>

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### 6.3 Pro-democracy groups and NGO’s

6.3.1 Several pro-democracy groups have disbanded following the introduction of the National Security Law. In August 2021 the pro-democracy group responsible for organising Hong Kong’s biggest protests, the Civil Human Rights Front (CHRF), announced they were closing<sup>89 90</sup> with the Guardian newspaper noting that: ‘...no members were willing to perform secretariat duties after its convenor, Figo Chan Ho-wun, was jailed for 18 months over a 2019 rally.’<sup>91</sup>. The Guardian went on to note that the police chief had suggested that CHRF may have violated the NSL for past rallies organised

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<sup>86</sup> The Economist, ‘[Academics in Hong Kong suffer curbs on their freedoms](#)’, 24 July 2021

<sup>87</sup> HKFP, ‘[Profound regret! Chinese University of Hong Kong’s student union...](#)’, 7 October 2021

<sup>88</sup> USCC, ‘[Hong Kong’s Government Embraces Authoritarianism - Annual Report](#)’, November 2021

<sup>89</sup> The Guardian, ‘[Hong Kong group behind major pro-democracy protests...](#)’, 15 August 2021

<sup>90</sup> Reuters, ‘[Organizer of Hong Kong mass protests disbands in latest blow to...](#)’, 15 August 2021

<sup>91</sup> The Guardian, ‘[Hong Kong group behind major pro-democracy protests...](#)’, 15 August 2021

by them even though they had obtained permits and the law is not retroactive<sup>92</sup>.

- 6.3.2 Several pro-democracy activists have left Hong Kong following the introduction of the NSL and are now in self-imposed exile<sup>93</sup>.
- 6.3.3 In October 2021 Amnesty International announced that they would be closing their Hong Kong office following concerns on their staff's ability to operate following the introduction of the national security law<sup>94</sup>.
- 6.3.4 In March 2022 HKFP reported that: 'UK-based watchdog Hong Kong Watch says that Hong Kong's Security Bureau has threatened its founder with prison and fines for allegedly breaching the city's national security law. Local authorities have accused the group of interference and said the law applies worldwide. ...Police warned that the founder could face up to life imprisonment and a fine of HK\$100,000.'<sup>95</sup>

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## 6.4 Trades unions

- 6.4.1 The pro-democracy Hong Kong Professional Teachers' Union disbanded in August 2021. The union had represented over 90% of Hong Kong's educators and had been responsible for lobbying for better conditions for teachers and democracy for the city. The union had been continuing to lobby for teachers' rights but on 31 July 2021 Chinese state media called for it to be 'eradicated' and the Education Bureau quickly announced it would no longer recognise the union. Following increasing pressure, the union eventually disbanded<sup>96</sup>. Others groups which have disbanded include the Progressive Lawyers Group (PLG), Progressive Teachers' Alliance, Medical groups Médecins Inspirés and Frontline Doctors' Union and Two local political groups, the Neo Democrats and Community Sha Tin<sup>97</sup>.
- 6.4.2 In October 2021 Reuters reported that: 'Hong Kong's largest independent trade union disbanded on Sunday [3 October 2021], stoking concerns over the space for civil society groups as a national security law stifles dissent in the global financial centre. Members of the Hong Kong Confederation of Trade Unions (HKCTU) voted to break up because "political uncertainty" had made it difficult to continue, its vice-chairman Leo Tang said, declining to elaborate further.'<sup>98</sup>

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<sup>92</sup> The Guardian, '[Hong Kong group behind major pro-democracy protests...](#)', 15 August 2021

<sup>93</sup> HKFP, '[2021 Hong Kong Charter: Activists in exile to launch campaign to unite...](#)', 15 March 2021

<sup>94</sup> The Guardian, '[Amnesty International to close Hong Kong offices due to...](#)', 25 October 2021

<sup>95</sup> HKFP, '[Security Bureau threatens UK-based Hong Kong Watch founder with...](#)', 14 March 2022

<sup>96</sup> HKFP, '[Explainer: A 48-year-old union gone in 11 days - how Hong Kong...](#)', 15 August 2021

<sup>97</sup> HKFP, '[Security law: At least 8 Hong Kong pro-democracy groups disband...](#)', 6 July 2021

<sup>98</sup> Reuters, '[Hong Kong trade union disbands as impact of security law deepens](#)', 3 October 2021

## 7. Political rights

### 7.1 Impact on July 2020 LegCo elections

- 7.1.1 The Legislative Council (LegCo) is described by the BBC as an elected ‘mini parliament’ which makes and amends Hong Kong’s laws, approves budgets and taxes and endorses the appointments of judges<sup>99</sup>.
- 7.1.2 In July 2020 more than half a million Hong Kong residents defied the government to vote in an unofficial primary election to narrow down the opposition candidates competing in September 2020 elections for the city’s LegCo. The turnout, which was more than 3 times that expected by the organizers, came despite government statements that the effort could violate provisions of the national security law<sup>100 101</sup>. Secretary for Constitutional and Mainland Affairs, Erick Tsang, had said on 9 July 2020 that ‘Those who have organised, planned or participated in the primary election should be wary and avoid carelessly violating the law’<sup>102</sup>. On 30 July 2020 the government banned 12 pro-democracy candidates from running in the election, these included high-profile activists Joshua Wong and Lester Shum<sup>103</sup>.
- 7.1.3 On 31 July 2020 the government postponed the LegCo elections citing rising Covid-19 cases as the reason, although opposition had accused the government of using the pandemic as a pretext to stop people from voting<sup>104</sup>. (For more information on activist Joshua Wong see [Treatment of family members of persons of interest](#)).

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### 7.2 Changes to legislative election system

- 7.2.1 HRW reported in June 2021 that: ‘The Chinese government ... issued a [decision](#) in November 2020 to disqualify Hong Kong legislators who “publicize or support independence,” “seek foreign interference,” or pursue “other activities that endanger national security.” Following this decision, the Hong Kong government immediately disqualified four pro-democracy legislators. Fifteen other pro-democracy legislators resigned, leaving LegCo without any effective pro-democracy opposition.’<sup>105</sup>
- 7.2.2 According to an April 2021 report by US NGO the National Democratic Institute (NDI): ‘The government listed several grounds for disqualification [for those taking part in elections], including: advocating for Hong Kong independence; soliciting intervention by foreign governments in local affairs; expressing opposition to the National Security Law; and pledging to “indiscriminately” vote against government proposals in the LegCo.4.’<sup>106</sup>
- 7.2.3 On 30 March 2021 China finalised the overhaul of Hong Kong’s electoral system. The changes mean that the number of directly elected

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<sup>99</sup> BBC News, [‘Hong Kong: Why the Legco elections are so controversial’](#), 19 December 2021

<sup>100</sup> Japan Times, [‘Hong Kong pro-opposition primary voters defy threats...’](#), 13 July 2020

<sup>101</sup> BBC News, [‘Hong Kong: Opposition primaries draw thousands...’](#) 12 July 2020

<sup>102</sup> HKFP, [‘Hong Kong legislative primaries may violate national security law...’](#) 9 July 2020

<sup>103</sup> BBC News, [‘Hong Kong bars 12 opposition candidates from election’](#), 30 July 2020

<sup>104</sup> BBC News, [‘Hong Kong postpones elections for a year “over virus concerns”](#)’, 31 July 2020

<sup>105</sup> HRW, [‘Dismantling a free society’](#), 25 June 2021

<sup>106</sup> National Democratic Institute, [‘Revoked Promises: Hong Kong in Crisis’](#), April 2021

representatives is reduced with the number of Beijing approved officials increased<sup>107 108</sup>. BBC news reported that:

'In March [2021], Beijing passed a "patriots governing Hong Kong" resolution that fundamentally altered LegCo. The most important change was that it drastically shrank the proportion of lawmakers who can be directly voted in by the people - from 50% to 22%. All candidates must now be vetted by a separate screening committee - which has made it easier to bar anyone deemed as being critical of Beijing.

'The ruling also expanded and gave more powers to the Election Committee - a separate group that heavily skews pro-Beijing. Usually their main role is to choose the Chief Executive, but now, for the first time in years, they also have seats in LegCo.'<sup>109</sup>

#### 7.2.4 The USSD '2022 Hong Kong Policy Act Report' published on 31 March 2022 stated that:

'In May 2021, Hong Kong authorities passed new legislation that criminalized inciting others not to vote or to cast blank ballots. Violators are subject to up to three years' imprisonment and a fine. Authorities arrested at least ten individuals during the covered period for social media posts allegedly urging others to cast blank or invalid ballots and filed charges against at least two.

'Legal experts described the legislation as conflicting with common law norms that criminalize incitement only when the behavior exhorted is itself illegal. Hong Kong officials have also claimed inciting others to boycott elections or cast blank ballots may violate the NSL.'<sup>110</sup>

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### 7.3 LegCo elections 2021

7.3.1 HKFP reported on 20 December 2021 that: 'Hong Kong's "patriots only" election, the first held under a revamped system ordered by Beijing which marginalises democrats, saw a record low turnout as pro-government candidates swept into the expanded legislature. Around 1.3 million voters cast ballots on Sunday for a 30.2 per cent voter turnout – 5.6 percentage points less than the last historic low in the 1995 legislative election under British colonial rule.'<sup>111</sup>

7.3.2 On 20 December 2021 BBC news reported that:

'Government officials had urged the city's 4.5 million registered voters to take part in the election, and had made public transport on Sunday free as well as sent out mass texts to encourage a higher turnout. But in the end only 30.2% of voters participated, amid wide apathy about the poll.

'...Only 20 of the 90 legislative seats were directly elected by the public. Nearly half were picked by the pro-Beijing Election Committee and the rest

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<sup>107</sup> HKFP, '[Explainer: How Beijing cracked down on Hong Kong's elections](#)', 31 March 2021

<sup>108</sup> Reuters, '[China formalises sweeping electoral shake-up for Hong Kong...](#)', 30 March 2021

<sup>109</sup> BBC News, '[Hong Kong: Why the Legco elections are so controversial](#)', 19 December 2021

<sup>110</sup> USSD, '[2022 Hong Kong Policy Act Report](#)', 31 March 2022

<sup>111</sup> HKFP, '[Hong Kong 'patriots' poll results: Lowest election turnout yet, as pro...](#)', 20 December 2021

chosen by special interest groups like business and trade - which also historically lean towards Beijing.

'The move was widely seen as a continuation of China's plan to tighten control over Hong Kong and push for loyalty from all levels of power, following 2019's huge pro-democracy protests.

'It was also the first general election since China introduced a new national security law, making it easier to punish pro-democracy protesters.'<sup>112</sup>

- 7.3.3 The Guardian reported in January 2022 that following the “patriots only” election result Carrie lam announced that new security laws for the city would be introduced although she: ‘did not detail the new crimes that would be created in the planned “local legislation”’.<sup>113</sup>

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<sup>112</sup> BBC News, '[Hong Kong: Pro-Beijing candidates sweep controversial...](#)', 20 December 2021

<sup>113</sup> The Guardian, '[Hong Kong leader Carrie Lam vows to bring in new security laws](#)', 12 January 2022

# Terms of Reference

A 'Terms of Reference' (ToR) is a broad outline of what the CPIN seeks to cover. They form the basis for the [country information section](#). The Home Office's Country Policy and Information Team uses some standardised ToR, depending on the subject, and these are then adapted depending on the country concerned.

For this particular CPIN, the following topics were identified prior to drafting as relevant and on which research was undertaken:

- National security law
  - Updates to the law- functions of police/judiciary
  - Arrests under the law
  - Re-arrests?
  - Media freedom
  - Effects on elections?

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## Clearance

Below is information on when this note was cleared:

- version **3.0**
- valid from **22 June 2022**

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### **Official – sensitive: Start of section**

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### **Official – sensitive: End of section**

## Changes from last version of this note

Updated country information following review by the IAGCI

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