



# BRIEFING PAPER



## HONG KONG: THE SAFEGUARDING NATIONAL SECURITY ORDINANCE: LEGAL REPRESSION AND TRANSNATIONAL IMPLICATIONS



## **Briefing Paper**

# **Hong Kong - The Safeguarding National Security Ordinance: Legal Repression and Transnational Implications**

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This briefing paper is based on the discussions of a webinar hosted on March 25, 2025.

# The Safeguarding National Security Ordinance: Legal Repression and Transnational Implications

## Introduction

The Safeguarding National Security Ordinance (SNSO), enacted on March 23, 2024, represents a significant escalation in Beijing's legal and political control over Hong Kong. Building on the National Security Law (NSL) of 2020, the SNSO entrenches authoritarian governance through expanded definitions of national security crimes, extraterritorial jurisdiction, and systemic erosion of judicial independence. Over its first year, the law has intensified suppression of civil liberties, enabled transnational repression of Hong Kong's diaspora, and set alarming precedents for authoritarian convergence in the Asia-Pacific region.

## Background

The Hong Kong 47 case represents one of the most significant political prosecutions under the NSL. The 47 pro-democracy activists, politicians, and organizers were arrested in January 2021 for participating in an unofficial primary election intended to select pro-democracy candidates for the now-defunct Legislative Council elections. The government accused them of "conspiring to subvert state power," arguing that their electoral strategy aiming to secure a legislative majority and force government accountability amounted to an illegal attempt to overthrow the government.

Hong Kong's legal autonomy under the "one country, two systems" framework has been systematically dismantled since the 2019 pro-democracy protests. The NSL criminalized secession, subversion, terrorism, and collusion with foreign forces, but the SNSO amplifies these provisions by broadening definitions of "sedition" and "state secrets," increasing penalties, and retroactively denying early release for political prisoners. High-profile cases, including the Hong Kong 47's mass sentencing and Jimmy Lai's ongoing trial, exemplify the judiciary's subordination to political objectives. The SNSO empowers the Chief Executive to unilaterally classify information as state secrets, effectively criminalizing dissent and international advocacy.

In this context, the Asia Democracy Network (ADN) and Lady Liberty Hong Kong organised the webinar '**The Hong Kong 47 and the Erosion of Rule of Law under the National Security Law**' in **March, 2025**. This brief provides a summary of the discussion.

## Outline and the Discussants

The webinar examined the dismantling of judicial independence in Hong Kong, focusing on the case of the Hong Kong 47 and the broader implications of the National Security Law on civic space and rule of law. The discussion explored how the law has been used to suppress dissent, erode democratic institutions, and silence opposition voices. Speakers reflected on the international response, legal developments, and the continuing risks facing civil society and pro-democracy actors in Hong Kong and beyond.

Four experts joined the webinar:

- **Joey Siu**, Executive Council, World Liberty Congress
- **Michael Caster**, Head of Global China Programme, ARTICLE 19
- **Maiko Ichihara**, Professor, Graduate School of Law, Hitotsubashi University
- **Alric Lee**, Executive Director, Lady Liberty Hong Kong (moderator)

## Key Discussion Points

### Judicial Independence Undermined by Expanded Legal Mechanisms

The SNSO institutionalizes political control over Hong Kong's judiciary, eroding foundational principles of the rule of law. Under Article 100, judges for national security cases are appointed based on political loyalty rather than merit, bypassing the Judicial Officers Recommendation Commission. The Court of Final Appeal's March 2025 ruling in Tam Tak-chi v. HKSAR upheld sedition convictions without requiring proof of intent to incite violence, establishing a precedent for prosecuting symbolic speech under the SNSO. This decision aligns with Beijing's interpretation of national security, which supersedes Hong Kong's Basic Law and international human rights obligations.

Lawyers defending political cases face unprecedented risks. The SNSO permits authorities to bar specific attorneys from national security trials, suspend attorney-client privilege, and impose 48-hour communication blackouts between detainees and legal counsel. In December 2024, barrister Chow Hang Tung's rare victory in overturning convictions related to the Hong Kong Alliance's records highlighted the judiciary's inconsistency, yet her ongoing detention on subversion charges underscores the precariousness of legal resistance.

The SNSO has effectively transformed the judiciary into an instrument of political suppression, ensuring that legal avenues for dissent are systematically dismantled.

## **Systemic Suppression of Civil Liberties and Political Dissent**

The SNSO's vague provisions have decimated Hong Kong's civil society. Independent media outlets like Apple Daily and Stand News were shuttered under asset-freezing orders, while diaspora platforms such as Flow Hong Kong face extraterritorial censorship demands. In March 2025, activist Chiu Kai-pong received a seven-year sentence for wearing protest-themed clothing, exemplifying the criminalization of symbolic dissent. Civil society groups, including the Hong Kong Alliance, dissolved under police orders to delete digital archives, erasing historical accountability for events like the Tiananmen Square vigils.

Political opposition has been methodically eradicated. The Hong Kong 47 case redefined participation in primary elections as "subversion," imprisoning pro-democracy leaders and deterring electoral engagement. Over 1,900 political prisoners are now detained under NSL/SNSO statutes, with bail routinely denied and trials conducted without juries.

### **Silencing the Diaspora**

Hong Kong's authorities have globalized repression through the SNSO's extraterritorial clauses. As of March 2025, 19 overseas activists, including Joey Siu and Frances Hui, face HKD \$1 million (approximately USD 130, 000) bounties and INTERPOL Red Notices for "collusion" charges. The December 2024 revocation of passports for six exiles, including Tony Chung and Chloe Cheung, renders them stateless unless granted asylum, a tactic paralleling China's treatment of Uyghur dissidents. Hong Kong Economic and Trade Offices (HKETOs) in London and Toronto have coordinated surveillance operations, with the London branch implicated in a May 2024 break-in targeting activist residences.

Diaspora communities confront intersecting vulnerabilities. Host countries' immigration backlogs and anti-refugee policies, such as the U.S. Deferred Enforced Departure program's instability, compound risks of deportation. Lawyers like Dennis Kwok face disbarment in Hong Kong, nullifying their professional credentials abroad and stifling advocacy networks. Crowdfunding platforms aiding exiles are pressured to freeze accounts under SNSO "foreign influence" provisions, crippling financial lifelines for groups like Lady Liberty Hong Kong.

### **The SNSO's Regional and Global Impact**

The SNSO reflects China's strategy of "securitization," reframing governance critiques as existential threats to justify repression. This model is resonating regionally: Thailand's 2024 deportation of 40 Uyghurs to China following diplomatic negotiations illustrates the "swap mart" tactic, where states exchange detained dissidents to mutual advantage. Japan's reluctance to sanction Hong Kong, despite hosting 12,000 exiles, underscores the economic pressures silencing democracies.

The law's global reach sets dangerous precedents. In May 2024, following a Hong Kong court injunction targeting 32 specific YouTube links of the protest anthem Glory to Hong Kong, EmuBands, a UK-based music distributor, preemptively removed the song from global streaming platforms including Apple Music, iTunes, and Spotify. This move, widely criticized by human rights organizations including, was based on a flawed interpretation of the injunction, which does not prohibit lawful use of the song nor apply extraterritorially. The incident demonstrates how the SNSO and its chilling effect can extend beyond Hong Kong's borders through anticipatory censorship by global companies.

Multinational corporations are increasingly caught in the crossfire. CK Hutchison's sale of Panama Canal assets to BlackRock in 2024 triggered accusations of "betrayal" from pro-Beijing legislators, illustrating how the SNSO is being weaponized to influence global commercial decisions. Together, these developments signal a dangerous convergence between state repression and corporate compliance, with serious implications for freedom of expression and business and human rights standards.

## **International Law Violations and Erosion of Diplomatic Norms**

The SNSO contravenes multiple international treaties, including the International Covenant on Civil and Political Rights (ICCPR), which Hong Kong remains party to. The UN Human Rights Committee's 2022 condemnation of the NSL highlighted violations of due process, yet Beijing has dismissed these findings as "Western hegemony". The UK's December 2024 report documented 304 NSL-related arrests and 176 prosecutions, noting the National Security Committee's authority to override judicial rulings—a breach of the Sino-British Joint Declaration.

Western responses remain fragmented. While the U.S. Congress debates the Transnational Repression Policy Act, targeting sanctions against SNSO enforcers, the EU's inaction reflects geopolitical calculations balancing human rights with economic ties. Conversely, autocracies like Cambodia and Myanmar have praised the SNSO as a "stability model," signaling alignment with China's authoritarian playbook.

## Conclusion

The SNSO's first anniversary marks not merely Hong Kong's decline but a watershed in global authoritarianism. Countering its implications requires transcending geopolitical rivalries to uphold universal rights, ensuring Hong Kong's struggle remains visible in the fight for democratic resilience.

Despite the intensified crackdown, Hong Kong's spirit of resistance endures. The courage of the Hong Kong 47, the persistence of diaspora communities, and the creative defiance seen in underground memorials, encrypted platforms, and international advocacy are testaments to the resilience of a people refusing to be erased. Hope lies not in institutional reform alone but in the sustained power of solidarity across borders, movements, and generations.

## Recommendations

### For Governments:

- Establish expedited asylum pathways for Hong Kongers, recognizing NSL/SNSO charges as political persecution.
- Impose Magnitsky-style sanctions on officials involved in transnational repression, including HKETO directors.
- Legislate protections against extraterritorial censorship, mandating tech companies to reject takedown requests lacking independent court oversight.

### For Civil Society:

- Develop cross-movement coalitions with Uyghur, Tibetan, and Taiwanese groups to counter China's divide-and-rule tactics.
- Empower diaspora communities through capacity-building programs, fostering leadership among youth and activists to advance human rights and digital freedoms in the face of repression.

### For Multilateral Bodies:

- The UN Human Rights Committee should request follow up information from Hong Kong following its 2022 Concluding Observations on its review of ICCPR implementation, and namely in relation to its recommendation to repeal the NSL and cease implementing it, in light of the NSL basis for further rights restrictions under the SNSO.
- The G7 must coordinate sanctions and intelligence-sharing to disrupt transnational repression networks.