

SAFETY OF HONG KONGERS IN CANADA: TRANSNATIONAL REPRESSION AND FOREIGN INTERFERENCE

INTRODUCTION

Transnational repression and foreign interference have become pressing concerns for the Hong Kong diaspora in Canada.

The increasing influence of the People's Republic of China abroad, including in Canada, has raised fears of reprisals against individuals expressing dissent or advocating for the autonomy and democratic values of Hong Kong. Cases of surveillance, harassment and coercion targeting Hong Kongers in Canada have been reported, reflecting a troubling extension of the PRC's restrictive measures beyond its borders.

This briefing includes new threats expected to be faced by Hong Kongers with the passing of new national security legislation in the [Safeguarding National Security Bill](#) under Article 23 of the Basic Law of Hong Kong, case studies of transnational repression from the diaspora in Canada, and recommendations for the Government and parliamentarians.

RECOMMENDATIONS TO THE CANADIAN GOVERNMENT AND PARLIAMENTARIANS

1. Condemn Hong Kong's Article 23 legislation and clearly state that the extraterritorial provisions of said law will not be applied in Canada, and any attempts to do so will be duly prosecuted according to domestic law;
2. Create an interdepartmental agency to combat transnational repression;
3. Establish a foreign agent registry;
4. Relevant committees undertake a study on transnational repression in Canada; and
5. Establish a reporting hotline in Cantonese for Hong Kongers facing transnational repression in Canada.

IMPLICATIONS OF ARTICLE 23 LEGISLATION

Following a one-month long consultation process, to which Hong Kong Watch [submitted](#) a legal analysis of the Safeguarding National Security Bill, colloquially referred to as ‘Article 23’, the Hong Kong government introduced the proposed text of Article 23 to the Hong Kong Legislative Council. The [proposed legislation](#) under Article 23 will further stifle basic civil and political rights in Hong Kong, which are already repressed under the Beijing-imposed National Security Law of 2020, criminalizing fundamental freedoms such as freedom of expression under the guise of national security.

Article 23 is set to prohibit seven types of activities which the Hong Kong officials intend to declare as ‘offences’, and has proposed provisions which are vague and will criminalize the peaceful exercise of human rights while dramatically undermining due process and fair trial rights in Hong Kong, bringing further devastating consequences for human rights and freedoms in Hong Kong, beyond the impact of the National Security Law. It will also further violate Hong Kong’s obligations under international human rights law and standards.

For Hong Kongers in Canada, the chief concern with respect to Article 23 and its implications on transnational repression is the potential extraterritoriality application of the legislation.

The Safeguarding National Security Bill, under Article 23 legislation, stipulates clearly that extraterritoriality will be enforced. Part 1, Clause 9 reads:

“Unless otherwise provided in a provision, an offence under this Ordinance applies to every person in the HKSAR. If an offence has extra-territorial effect, the extra-territorial effect is provided in the relevant Part.”¹

Parts of the Bill that have extraterritorial effects include Treason, etc. (Part 2), Insurrection, Incitement to Mutiny and Disaffection, and Acts with Seditious Intention, etc. (Part 3), Offences in connection with State Secrets and Espionage (Part 4), and Sabotage Endangering National Security, etc. (Part 5).²

A Hong Konger in Canada exercising their legitimate freedom of speech in Canada may, under this Bill, commit an offense. For example, speech in support of Taiwan or its democracy may constitute treason under Part 2 of the Bill, wherein treason may be seen as “intent to endanger the sovereignty, unity or territorial integrity of China,” and advocating for human rights in Hong Kong may be seen as colluding with foreign forces under Part 3 of the Bill.

¹ Safeguarding National Security Bill, Hong Kong Government, 8 March 2024, <https://www.legco.gov.hk/yr2024/english/bills/b202403081.pdf> and archived at <https://web.archive.org/web/20240315184833/https://www.legco.gov.hk/yr2024/english/bills/b202403081.pdf>

² Ibid.

Chapter eight of the consultation document for Article 23 recommends stipulating extraterritorial effects in respect to offenses threatening national security.³ Section 8.1 of the Consultation Document reads:

“Criminal acts endangering national security, which are different from general criminal acts, threaten the fundamental interests of a state. Given their serious nature, such acts, be they committed outside the territory or locally, should be reasonably prevented, suppressed and punished. Therefore, when enacting local legislation for safeguarding national security, we recommend stipulating appropriate extra-territorial effect in respect of offences endangering national security.”⁴

It is clear from the language of the Bill and the consultation document that the Hong Kong government intends to apply certain provisions of Article 23 legislation extraterritorially for activities that are otherwise legal in Canada.

³ Safeguarding National Security: Basic Law Article 23 Legislation Public Consultation Document, Hong Kong Government, January 2024, https://www.sb.gov.hk/eng/bl23/doc/Consultation%20Paper_EN.pdf and archived at https://web.archive.org/web/20240315185012/https://www.sb.gov.hk/eng/bl23/doc/Consultation%20Paper_EN.pdf

⁴ Ibid.

CASE STUDIES

The case studies below detail instances in which Hong Kongers in Canada have been intimidated, threatened or otherwise discouraged from acting or speaking in support of the pro-democracy movement.

The responses gathered through the survey were self-reported, with participants voluntarily providing their answers, as the survey was disseminated through social media posts and circulated within the community. Responses are edited for clarity.

Case A

After organizing a protest in front of a Chinese consulate in 2019, I received a cyber attack the next day, attempting to exploit vulnerabilities on my phone. After giving a speech about the human right violations of the Chinese Communist Party, I also received unfriendly messages from my colleague who was from mainland China.

Case B

In April 2019, I was renting a room in a shared house in Toronto. After participating in a pro-democracy protest, I put up slogans of the Anti-Extradition Movement in my room and car. Soon after, the landlord did not let me continue to live there. I then found out the landlord was a core member of the United Front Work Department. I wanted to complain to the Canadian Human Right Tribunal and Landlord and Tenant Board, but I did not do so out of fear of retribution.

In these cases, Hong Kongers in Canada express how they were threatened in person and online after attending protests and supporting the Hong Kong protests abroad in 2019. The perpetrators of these acts of intimidation were people who were living in Canada and enforcing Beijing's agenda in ways that, while threatening, are ambiguous and difficult to hold to account.

If Article 23 is implemented in Hong Kong, the threats to Hong Kongers overseas will likely increase, specifically under the extraterritoriality clause. Furthermore, the vague and ambiguous language of Article 23 may lead Hong Kongers to self-censor to ensure that they do not endanger themselves or their families and friends who remain in Hong Kong.

Currently, Canada does not have a foreign agent registry that would equip Canadian authorities with the tools needed to prosecute those who carry out transnational repression on behalf of a foreign state. A previous attempt to introduce such a registry in 2021, [Bill C-282](#), only progressed as far as first reading in the House of Commons. A foreign agent registry could help identify potential risks to the safety and well-being of diaspora groups by shedding light on foreign actors' activities within the country.

While these cases are from 2019, they remain relevant today. The Canadian Government has not yet implemented any legislation or policies to protect Hong Kongers from transnational repression in Canada, or to address the risk of threats to one's loved ones abroad.

Additionally, the case studies below detail instances in which Hong Kongers in Canada have self-censored their political beliefs and opinions out of fear of persecution. Responses are edited for clarity.

Case C

I don't post anything online anymore, and I don't talk about the atrocities in China (especially Xinjiang, Hong Kong and Tibet) to anyone at work as I don't know if they will broadcast or repeat my opinion. I also don't trust the local police or RCMP to actually arrest anyone, including members of the Chinese Communist Party, who harass or threaten anyone for speaking out about human rights violations perpetrated by China. There is simply no evidence that they are protecting the Chinese or Hong Kong diasporas from such harassment and threats.

Case D

Since immigrating to Canada, I've had friends invite me to participate at a protest in front of a Chinese Consulate, but I am too worried about getting my photo taken by agents of the People's Republic of China. I haven't participated in any protests at all since coming to Canada because I am worried that my friends and family in Hong Kong would be threatened as a result of my actions.

Case E

It's been a year since I've come to Canada, and I've completely closed myself off. Even when making new friends I am afraid they are agents of the People's Republic of China – I am scared that even introducing myself will give the Chinese Communist Party a way to get back at me. I'm also so worried for the safety of my friends and family in Hong Kong that I don't contact them at all anymore. I don't dare go near places like the Chinese Consulate or the Hong Kong Economic and Trade Office for fear of my safety.

The Charter of Rights and Freedoms guarantees any person in Canada the freedom of conscience and religion; thought, belief, opinion, and expression, including freedom of the press and other means of communication; peaceful assembly; and association. However, as demonstrated in the case studies above, Hong Kongers who have come to Canada to seek refuge from the threat of political persecution do not feel safe to exercise those rights and freedoms.

This fear is rooted in the long reach of repressive regimes like the People's Republic of China, which may employ tactics such as surveillance, harassment, or even violence against dissidents abroad. As a result, individuals grapple with the dilemma of balancing their desire for free

expression with the need to protect themselves and their loved ones from the persistent threat of transnational repression.

Canada offered a way for Hong Kongers who need to leave the city to safely resettle in this country through the Hong Kong Pathway immigration scheme. As such, it is important that Hong Kongers are able to live in Canada with all the Charter freedoms and other international rights and freedoms guaranteed, and to be able to exercise their fundamental rights free from threats and intimidation.

CONCLUSIONS

Hong Kongers in Canada often face transnational repression, in the form of threats or intimidation, for exercising their fundamental rights and freedoms. As a result, many Hong Kongers now practice self-censorship as a way to protect themselves from the long reach of the regime in Beijing, often opting to stay silent instead of speaking out for human rights.

To address these pressing concerns, the Canadian government must implement a framework to protect Hong Kongers who now call Canada home, including setting up a foreign agent registry, a reporting hotline in Cantonese, and an interdepartmental agency to combat transnational repression. Further, relevant committees should undertake studies such that a comprehensive landscape of the threat environment can be understood. The Canadian government must also condemn the proposed Article 23 legislation and unequivocally state that any attempts to undertake transnational repression in Canada will be duly prosecuted according to domestic law.