



# THE STORY THAT WON'T BE SILENCED

HONG KONG FREEDOM OF EXPRESSION REPORT 2021/22

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**Cover:** Montage of central figures in the fight for freedom of expression in Hong Kong, including RTHK producer Bao Choy (top left), Next Digital founder Jimmy Lai (bottom left), Stand News editor Patrick Lam (bottom middle), HKJA Chairman Ronson Chan (bottom right), and pro-democracy activists in Tokyo (top right). CREDIT: VERNON YUEN/NURPHOTO, STR, DANIEL SUEN, ISAAC LAWRENCE, PHILIP FONG / AFP

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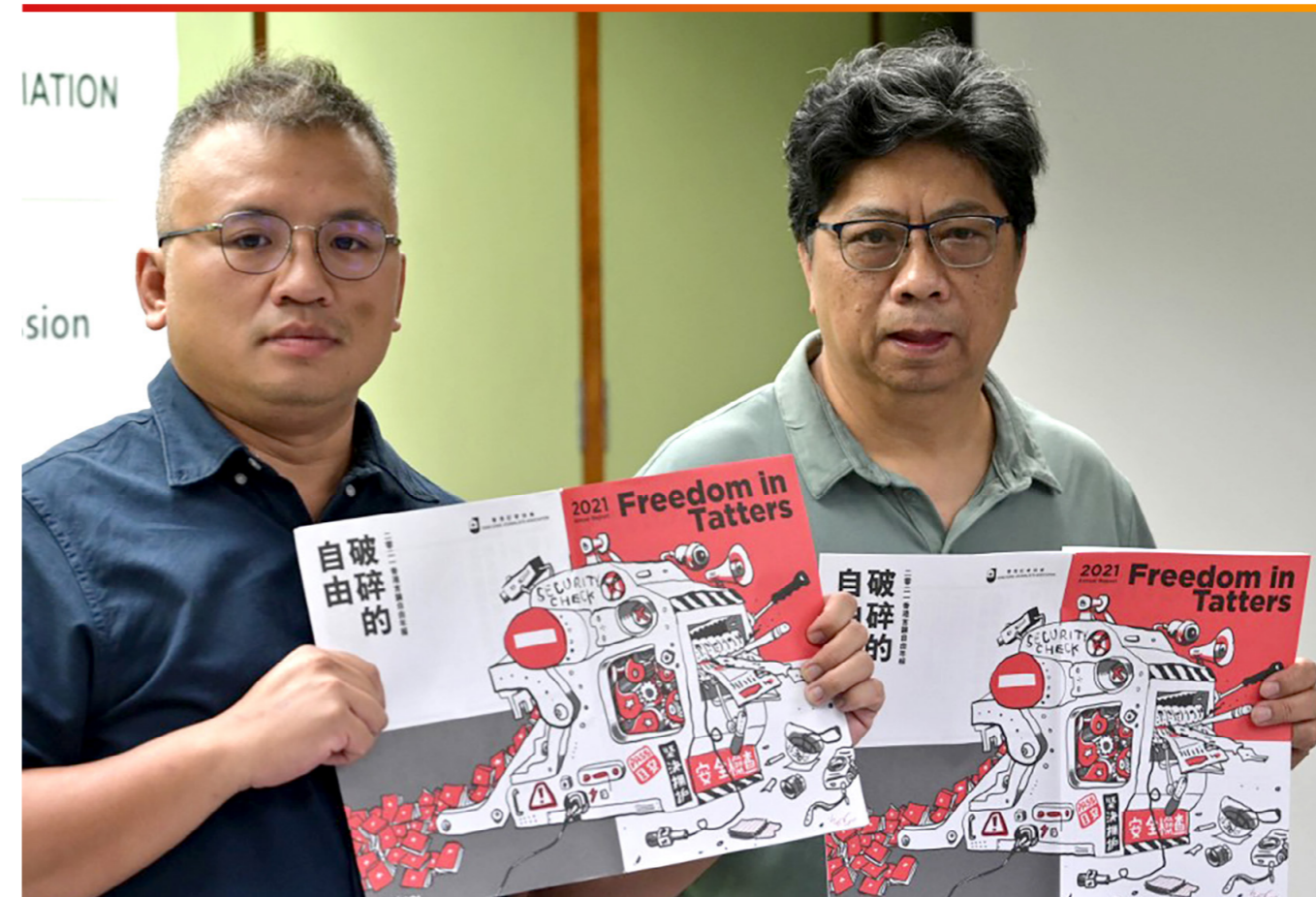
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## Summary

- Since June 2020, at least 12 independent, and some long-term established, news providers have permanently closed in Hong Kong.
- Pro-China or China-supporting news services and online commentaries have been growing in number since 2013, created by lawmakers, businesspeople and pro-establishment commentators.
- Changed police search and seize powers have empowered police to search premises and electronic devices that contain evidence of acts that allegedly endanger national security, including that contained in journalistic material.
- The offence for sedition, revived in March 2020, is being frequently used by police against the peaceful exercise of freedom of expression in the territory.
- At least 21 new China/Hong Kong “self-media” news services and reporting ventures covering a variety of news and specialised content online on YouTube, websites and other subscription services have emerged, most created by Hong Kong journalists forced out of work due to media closures. This includes 16 in Hong Kong, four in the UK, two in Canada and one in Taiwan.
- Despite the challenges, alternative news and analysis on Hong Kong and China is continuing on platforms such as YouTube and web radio.
- A project to “rectify” Radio Television Hong Kong (RTHK) from March 2021 included the decision to stop relaying BBC World Service, the launch of new editorial guidelines and a new focus to take a more pro-China or China supporting stance.
- Under a new leadership regime enforced at the broadcaster from 2021, RTHK programs have been censored, social media pages halted, past episodes of programs deleted and at least six programs axed. A mass exodus of experienced professional staff followed a series of resignations, sackings and terminations of journalists.
- Exiled journalists and media workers from threatened and shuttered media outlets have gone on to establish news services reporting on China, Hong Kong and Taiwan in the United Kingdom, Canada and Taiwan or relocated operations to places including Singapore.

## Introduction



HKJA Chair Ronson Chan and chief editor Chris Yeung hold HKJA's annual report in Hong Kong on July 15, 2021. HKJA and its members have faced increasing difficulties operating since the introduction of the National Security Law in 2020. CREDIT: ANTHONY WALLACE / AFP

This report should have been published as the 30th report on Hong Kong's freedom of expression prepared by Hong Kong Journalists Association (HKJA), as it had been every year since 1993. The threat of the Beijing-imposed National Security Law means that this, understandably, did not happen.

But the mission to document Hong Kong's press freedom in particular and freedom of expression does not stop. It has been picked up by an independent group of Hong Kong journalists and researchers who remain committed to telling truth to power. Here, they document the latest developments in the demise of freedom of expression in Hong Kong. The International Federation of Journalists (IFJ), with its long-standing support and commitment to defending press freedom in Hong Kong is honoured to provide the platform for its publication.

At the early stage after the handover in 1997, Hong Kong's media appeared to be largely left to its own devices by the Chinese Communist Party (CCP) - an outcome not born out of the largesse of the party, but as a hard-won result of the constant vigilance, fightback and resilience of Hong Kong's journalists and civil society.

To those outside of the territory, the CCP appeared to have kept its promise of maintaining “one country, two systems”. But inside, the reality was continual and cumulative attempts to erode press freedom – all clearly documented in the

successive annual reports on freedom of expression by IFJ's affiliate, the HKJA.

The IFJ acknowledges the remarkable courage of Hong Kong's journalists and HKJA for their tireless work and commitment to professional journalism and defending the media space.

The irony is not lost on anyone that the 30th annual report can no longer be published inside Hong Kong. A further painful footnote for media workers was the decision by HKJA members in June to change the union's constitution to make the organisation's dissolution easier, if and when this is needed.

It is indeed a tragedy in Hong Kong today that many journalists who have dedicated their lives to the ideals of press freedom and the people's right to know have been forced to flee, self-censor or submit to years in prison for simply doing their job. Still, others are continuing to work professionally within Hong Kong's paradigm shift, pushing the envelope within the new boundaries where they can.

In exile and online, they are endeavouring to tell their story in spaces outside CCP control. Together they stay committed to shine a light even in this uneasy, indeed dangerous, time.

In Hong Kong, free speech is no more. But Hong Kong's journalists will not to be silenced. This is their story – the fight continues. ■

## Overview

### ONE SYSTEM OVERRULES

It was under the cloak of a global pandemic that the Chinese Communist Party unsurprisingly refocused its attention on Hong Kong. From 2020, what unfolded was an almost complete destruction of political and civil liberties and a clear and flagrant violation of the CCP's commitments to Hong Kong and its people.

As well as aggressively curbing ordinary citizens' right to protest, to exercise political choices, and to move around at will, China set its sights squarely on the media. In just two years, Hong Kong's media diversity was gutted, with the Beijing controlled government using draconian laws to crush dissenting news outlets and jail their leading figures, freeze bank accounts and, in an extreme case, force a media company into liquidation.

This environment of fear forced publishers to toe the government line or soften their criticisms to survive. Others either shut down entirely or relocated outside Hong Kong so they could continue publishing. In this same period, the public service broadcaster, Radio Television Hong Kong (RTHK), was efficiently transformed into a government propaganda arm.

The main catalyst for these changes was the National Security Law, which was legislated in Beijing and imposed on the territory with effect from June 30, 2020. The law created four major criminal offences: secession, or breaking away from the country; subversion, or undermining the

power or authority of the central government; terrorism, or using violence or intimidation; and collusion with foreign or external forces. Not only are the offences wide-ranging, but their definitions remain open to interpretation by the security enforcement bodies. Punishments are harsh, ranging up to life imprisonment.

The second catalyst was the revival of the 1938 sedition law that forms part of the Crimes Ordinance. The sedition clause, a relic of the British colonial government law that had lain dormant for half a century, was resurrected in March 2020 and used repeatedly after that, often in conjunction with charges under the National Security Law. In such cases, the onus of proof is reversed so that the accused must prove their innocence. People charged under either law are tried by specially selected panels of judges and routinely denied bail.

The most pivotal closure in the Hong Kong media space was that of the pro-democracy newspaper *Apple Daily* on June 24, 2021. Its parent company, Next Digital, was forced into liquidation, while *Apple News* founder Jimmy Lai Chee-ying, and several senior members of its journalistic staff, were arrested on national security charges, making them the first high profile targets of the Covid-era clear-out.

Today, Lai continues to plead not guilty, a response that increases the chances that he will be sentenced to life in prison. According to available records, 10 journalists and four companies have been prosecuted under the National Security Law or charged with sedition offences under the Crimes



Supporters hold posters as Radio Television Hong Kong (RTHK) producer Bao Choy Yuk-ling (not seen) speaks to the press at the West Kowloon Courts building in Hong Kong on April 22, 2021. CREDIT: ANTHONY WALLACE / AFP



Riot Police deploy pepper spray towards journalists during a demonstration against the 2020 National Security Law. Since the introduction of the law Hong Kong has seen a crackdown on press freedom, independent media and pro-democracy activists. CREDIT DALE DE LA REY / AFP

Ordinance. Another eight were either arrested or placed on wanted lists for sedition because of their media work.

At least 12 dissenting publications shut down in the months after *Apple Daily* closed. *Stand News* closed after all its computers were seized in a police raid on December 29, 2021. Other news outlets also shuttered their operations to avoid what they saw as inevitable police action, with some reconstituting their operations online in Taiwan, Singapore, Canada or the UK. While the overseas option increases these outlets' freedom to publish, they lack to some degree the responsiveness of on-the-ground reporting and immediacy due to time differences. Undaunted, they persevere.

Small media operations offering comment and analysis also sprang up in an attempt to fill the gap, many of them established by former staff of shuttered outlets. Some are one-person operations known as "self-media" that publish on free platforms such as Facebook and YouTube. Their viability remains open to question, however. Audience numbers are hard to measure and reliance on social media platforms leaves them vulnerable to the platforms' algorithms and policies. Their difficulties in coordinating their news agendas makes it harder to have the same impact that major outlets such as *Apple News* once did.

RTHK, the territory's once respected public service broadcaster, was transformed into a government propaganda

agency in a little over a year after Patrick Li Pak-chuen, a career public servant with no media background, took up the post of Director of Broadcasting on March 1, 2021. Long-standing programs that provided balanced reporting on current affairs or offered a forum for discussion were axed. At least 18 staff quit or were fired within three months of Li's appointment. Censorship was exercised through the imposition of new "guidelines", pre-approval for program ideas and the vetting of guests for interview, even on music programs.

This crackdown on independent media was accompanied by egregious treatment of ordinary people. Hong Kong citizens have been convicted of crimes related to national security for non-violent protests such as handing out flyers, chanting slogans, displaying placards, making social media posts, and giving interviews to media at rallies. The judgements show that simply expressing an opinion can be treated as a criminal act.

The assault on media freedom and individual freedom of expression has crushed Hong Kong's once vibrant culture of civic debate. The territory government and its political masters in Beijing have corrupted the law to make it an instrument of repression. They have redefined national security to mean the supremacy of the ruling party. And they have subordinated crucial human rights to the single goal of retaining power. ■

## Hong Kong's legal slide



Current Chief Executive of Hong Kong John Lee speaks at a press conference in the Central Government Office in June 2020. Vetted by Beijing, John Lee was the only candidate in Hong Kong's 2022 election in May. CREDIT: VERNON YUEN / NURPHOTO VIA AFP

The UN Human Rights Committee this year urged the Hong Kong government to repeal the National Security Law and the sedition provisions of the Crimes Ordinance and to “refrain from using them to suppress the expression of critical and dissenting opinions”. The remarks were contained in the committee’s findings on Hong Kong’s implementation of the International Covenant on Civil and Political Rights (ICCPR), released on July 27, 2022.

It is unfortunately true that the Hong Kong Journalists Association (HKJA) made a similar call regarding the sedition offence 30 years ago because of the grave threats it poses to freedom of expression and of the press.

Back in 1993, the HKJA and Article 19, a London-based group that advocates for freedom of expression, urged the government to repeal or liberalise the sedition provisions. The law was one of 17 that were seen as incompatible with Article 16 of the Hong Kong Bill of Rights, which mirrors Article 19 of the International Covenant on Civil and Political Rights. HKJA argued that these laws – and in particular the security-related legislation – posed a threat to freedom of expression.

Regrettably, little has been achieved in three decades, and the situation the HKJA pointed out in its 1994 annual report remains largely true. It reads:

*“The lack of significant progress over the past 18 months on the amendment of legislation which is threatening to freedom of expression is a cause now of deepening concern ... the effective*

*admission by the British administration that it is not prepared to engage China in further disruptive political conflicts over what it appears to believe are issues best left alone, may mean that the remaining laws under review will be amended only superficially or possibly not at all ... certain laws, including contentious security-related laws – may carry over into the post-1997 SAR in their existing form, and present an open invitation to abuse.”*

The current situation proves that these fears have become reality.

### Unamended laws abused, society suffers

Among the 17 laws that the HKJA wanted reviewed in 1993, only eight – all carrying less weight – were amended before Hong Kong was handed over to Beijing in 1997. This means the majority of the laws targeted by the HKJA remain on the statute books. The most notable are the sedition offences in the Crimes Ordinance and the Emergency Regulations Ordinance. The sedition law has been used to arrest or prosecute 43 people and four companies in 20 cases over a period of 2.5 years. The Emergency Regulations Ordinance was used to prohibit the use of face coverings during the 2019 protests against a controversial extradition amendment bill that would have allowed Hong Kong citizens to be sent to mainland China for trial.

In the 1993 report, the HKJA and Article 19 proposed amendments to the sedition and treason offences in the

Crimes Ordinance. The HKJA pointed out that “these (offences) pose grave threats to freedom of expression and of the press in that they provide for the prosecution of publications of an allegedly treasonable or seditious nature”. It also questioned whether the offence of sedition should continue to exist in any democratic society.

When the Crimes (Amendment) (No. 2) Bill 1996 was tabled, the HKJA and two legal professional bodies supported the repeal of sections 9 and 10 covering seditious intention and offences because they contravened the basic rights enshrined in the ICCPR. Moreover, according to the bills committee report tabled in the Legislative Council House Committee on June 13, 1997, the Law Society and JUSTICE (the Hong Kong section of the International Commission of Jurist, which advocates for human rights and the rule of law), considered that the offence of sedition was archaic, had notorious colonial connotations and was contrary to the development of democracy.

Then legislator Emily Lau Wai-hing proposed to repeal these provisions. She reasoned that the offences criminalised expression and that the provision on seditious intention could be interpreted so broadly that it threatened human rights. The legislature passed the amendment bill without Ms Lau’s changes a week before Hong Kong was handed over to China on July 1, 1997. The bill did contain Principle 6 of the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, which meant that an intention to cause violence was necessary for a prosecution to succeed. However, the last British governor, Chris Patten, did not sign the amendment into law, so the changes were not implemented after the handover. This meant the sedition offence, along with its shortcomings, remained unchanged.

### Sedition revived, arrests follow

The offence, which was first enacted through the Sedition Ordinance in 1938, was used during the 1967 pro-Communist riots. It then lay dormant until March 26, 2020, when Cheng Lai-king, a Democratic Party district council chairperson, was arrested for seditious intent. The arrest was said to be related to posts she forwarded on Facebook. However, Ms Cheng was not formally charged.



Steve Li, senior superintendent of Hong Kong's new National Security Police unit holds an allegedly seditious children's book at a police press conference in Hong Kong on July 22, 2021. CREDIT: DANIEL SUEN / AFP

**Among the 17 laws that the HKJA wanted reviewed in 1993, only eight – all carrying less weight – were amended before Hong Kong was handed over to Beijing in 1997. This means the majority of the laws targeted by the HKJA remain on the statute books.**

Since then, the police have used sedition offences widely against the peaceful exercise of freedom of expression. The situation grew worse, especially after the top court, namely the Court of Final Appeal, in 2021 raised the threshold for bail applications for sedition offences by applying the same stringent standard that was already used for national security legislation.

Among those arrested were activists chanting slogans while campaigning on the street, journalists compiling news reports, students protesting on campus and professionals publishing children’s books with political references. The arrests even affected ordinary citizens administering their own social media accounts, sharing criticism against government policy, reminding people of special dates during the 2019 protest movement, delivering promotional flyers or posters to the public or clapping their hands and shouting in court.

### Criminalising free speech

More disturbing is the fact that Hong Kong’s courts upheld the criminalisation of speech (see chapter 4). While convicting five speech therapists who published picture books for children to 19 months’ imprisonment, District Court judge Kwok Wai-kin concluded that the use of force or a threat to use force was not necessary to secure a conviction for sedition. He even stated that the threat posed by words might be more damaging and could bring down a government or cripple its running.

Scholars and human rights advocates disagreed vociferously with the Hong Kong ruling. Eric Lai Yan-ho, a Hong Kong law fellow at the Center for Asian Law at Georgetown University in Washington D.C., said the picture book judgement signalled that the court had retrogressed to the early colonial stage when it came to cases of freedom of speech, expression and publication. The chilling effect deepened by the court’s ruling had the greatest impact on the publication and creative industry, he said.

In the children’s book case, the prosecutors contended that a book portraying the Chinese government as a “brutal, authoritarian, surveillance state” could “weaken” the Chinese government’s sovereignty over Hong Kong. Human Rights Watch described the prosecution as “without basis” and described the sedition offence as an archaic, overly broad crime used to clamp down on peaceful dissent.

The Law Society and JUSTICE argued to the Hong Kong legislature in 1997 that the sedition law was contrary to the development of democracy. This was echoed in a report in *India Today*, the most widely circulated magazine in India, which described the anti-sedition movement as an overwhelmingly global phenomenon. It stated: “Many democratic countries, including the United Kingdom, Ireland, Australia, Canada, Ghana, Nigeria and Uganda, have held sedition law as undemocratic, undesirable and unnecessary.” It went on to cite how sedition laws had been repealed or made

a dead letter in South Korea in 1988 and the US, New Zealand, Scotland, Indonesia and Singapore in 2021.

Indeed, the Supreme Court of India issued an interim ruling in May 2022 effectively halting all use of the country's seditious law. It argued that the law was "not in tune with the current social milieu, and was intended for a time when this country was under the colonial regime". The Indian government has agreed to reconsider the law.

The Hong Kong government is following a completely different and regressive path, turning a deaf ear to civic groups, including the HKJA and the International Federation of Journalists, as well as bodies such as the UN Human Rights Committee, which has called for the repeal of seditious laws. In the words of Indian independence activist Mahatma Gandhi, seditious laws are the "prince among the political sections of the Indian Penal Code designed to suppress the liberty of the citizen". This is as true for Hong Kong's citizens as it is for India's.

### Emergency Regulations Ordinance abused

The HKJA 1994 annual report assessed the government's slow progress in reviewing problematic laws, concluding that the potentially most dangerous was the Emergency Regulations Ordinance. This ordinance allows the Governor in Council to "make any regulations whatsoever which he may consider desirable in the public interest" during ill-defined conditions of emergency.

The ordinance has not been amended since the HKJA published that report. Rather, its dangers lay dormant for 46 years, only to surface during the 2019 protests against the extradition bill. The government abused the ordinance, bypassing the legislature to enact contentious regulations infringing free expression and voting.

It attributed to the failure of the ordinance to recognise the limits placed on the declaration of emergencies in section 5 of the Hong Kong Bill of Rights Ordinance, which mirrors article 4 of the International Convention on Civil and Political Rights.

The government led by the last British governor of Hong Kong, Chris Patten, agreed to review the ordinance, and in particular to study whether it was necessary to introduce more defined legislative controls on the exercise of emergency powers. In 1994, the HKJA noted its concern that these changes were "unlikely to be substantive" and, in the end, none were made. As a result, the extremely wide powers originally conferred on the Governor in Council are now available to the Chief Executive in Council.

The very wide powers conferred on the Chief Executive in Council are stated in 14 subsections. They include censorship; arrest, detention, exclusion and deportation; a requirement for persons to perform service; requisition of property; amending any enactment; and "such incidental and supplementary provisions as appear to the Chief Executive to be necessary or expedient for the purposes of the regulations". These were the unrestricted powers that enabled the then Hong Kong chief executive, Carrie Lam Cheng Yuet-ngor, to enact the Prohibition on Face Covering Regulation on October 4, 2019, without referring the matter to the Legislative Council.

The law prohibits people in unauthorised assemblies or public meetings and processions to use any face covering that is likely to prevent identification. Further, police can ask people to remove their face coverings in all situations. Ms Lam did not declare a state of emergency, yet she claimed it was necessary to use the emergency law so the authorities could

**The arrests even affected ordinary citizens administering their own social media accounts, sharing criticism against government policy, reminding people of special dates during the 2019 protest movement, delivering promotional flyers or posters to the public or clapping their hands and shouting in court.**

restore public order. Her aim was to quell the city's escalating unrest, which was fuelled by growing public anger towards perceived police brutality.

### Human rights abuses amid pandemic

Critics pointed at the infringement of human rights that the face-covering regulation entailed. Pan-democratic legislators and freedom advocacy groups complained that the law deprived residents of their human rights, especially freedom of expression. Then Democratic Party chairman Wu Chi-wai said Ms Lam had opened Pandora's box by enacting the new law and he expected the government to use the emergency law to enact more rules to suppress the public's political will.

Lawmaker Claudio Mo Man-ching accused the government of clamping down on protests seeking the repeal of an evil law by using a law that was yet more evil. Dennis Kwok of the Civic Party challenged the constitutionality of the chief executive's act in bypassing the legislature, given that legislative power was conferred on the Legislative Council by the Basic Law, Hong Kong's mini-constitution.

Pan-democrats took legal action on the matter, but Hong Kong's top court rejected their appeal. One of the reasons the Court of Final Appeal upheld the constitutionality of the law was that the Emergency Regulations Ordinance had survived two judicial reviews in the colonial era and there was no mention of any conflict between the ordinance and the Basic Law when the mini-constitution was being drafted in the early 1990s.

In the first four days after the anti-mask regulation became effective, officers arrested 91 people. No figures were released after that. Those arrested usually faced other charges, including rioting and unlawful assembly. It is difficult to tell how many people fell foul of the law. According to news reports, 12 defendants in two cases were sentenced in early 2022 to community service orders or jail terms of up to three months for breaching the anti-mask regulation. The maximum penalty is one year in prison and a fine of HK\$25,000 (approx. USD 3,210).

During her time as chief executive, Ms Lam also used the Emergency Regulations Ordinance to deprive millions of Hong Kong residents of their voting rights in two important elections, the legislative council election in 2020 and the chief executive election in 2022. In late July 2020, Ms Lam enacted the Emergency (Date of General Election) (Seventh Term of the Legislative Council) Regulation to postpone the legislative council election for one year, citing the Covid-19 pandemic.

The election was scheduled for September 6, 2020, and there were widespread expectations that the pan-democrats could win a majority in the legislature. However, new rules stipulating that



Graduating university students from the Hong Kong Polytechnic University wear Guy Fawkes masks in protest of the colonial-era Emergency Regulations Ordinance which prohibited the use of face coverings at protests. CREDIT: NOEL CELIS / AFP

only patriots could run meant that pan-democrats had almost no chance of even qualifying as candidates.

In the end, no traditionally defined democrats stood for election and many of their supporters abstained from voting in the rescheduled polls on December 19, 2021. The voter turnout rate for geographical constituencies tumbled to a historic low of 30.2 per cent, or 1.35 million people. This was a significant 850,000 voters fewer than in the previous poll in 2016. Those who voted were choosing 20 legislators, down from 35 in the 2016 poll.

There were also considerable reductions in the number of voters in the functional constituencies, which represent professional interest groups such as accountancy, finance, social welfare and tourism. Likewise, there was a reduction in the number of voters for the Election Committee, which chooses the chief executive and 40 out of 90 seats in the revamped and much less democratic Legislative Council.

In February 2022, Ms Lam once again used the powers conferred by the emergency ordinance to postpone the chief executive election by six weeks to May 8, 2022. She again cited the pandemic as the reason for the delay, but critics suggested it may have been ordered because Beijing had not yet decided who should be the next chief executive.

A perhaps less controversial use of the emergency ordinance was the enactment of the Emergency (Exemption from Statutory Requirements) (COVID-19) Regulation in February 2022. This allowed the chief secretary to waive certain licensing or registration requirements to bring in medical workers to deal with the pandemic.

### Official Secrets Law threatens freedoms

The 1989 Official Secrets Act was another area of "intense concern" noted in the HKJA's 1993 list of laws that should be reviewed. This was a British law extended to Hong Kong and later localised. The localised ordinance remained in place when China resumed sovereignty over the territory in 1997. The law aimed to control the unauthorised obtaining or disclosure of official information. The HKJA called for the law to be localised and liberalised through the introduction of defences based on public interest and prior publication.

The act was localised as the Official Secrets Ordinance four days before the handover on July 1, 1997, but it was not liberalised. Such liberalisation would have needed consultation with Beijing if it were to survive beyond 1997, and may have pre-empted the need for the new Hong Kong Special Administrative Region to enact a law on the theft of state secrets, which was required by Article 23 of the Basic Law.

The issue of theft of state secrets was somewhat unfamiliar in the context of Hong Kong law, but gained weight after the arrest in Beijing in 1993 of *Ming Pao* reporter Xi Yang for allegedly stealing state secrets. The move prompted the HKJA to call for official secrets legislation to include the public interest and prior publication defences.

The issue re-emerged in 2003 with the publication of proposed national security legislation in the form of the National Security (Legislative Provisions) Bill 2003. The government made some concessions during its public consultation, but withdrew the bill later in the year after 500,000 people took to the streets on July 1 to condemn it.



Pro-democracy legislator Claudia Mo holds her resignation letter and a yellow umbrella at Hong Kong's Legislative Council on November 12, 2020. The council's pro-democracy bloc had said they would resign en masse after the ousting of four legislative council members by Pro-Beijing authorities under the 2020 National Security Law. CREDIT: PETER PARKS / AFP

The issue of theft of state secrets is looming again because the current government is seriously considering the enactment of legislation under Article 23 of the Basic Law. Secretary for Security Chris Tang Ping-keung highlighted the need to combat espionage. He told lawmakers that the provisions in the Official Secrets Ordinance were not wide enough to tackle espionage and needed to be amended. "We feel that these definitions are not enough for us to combat all manners of espionage activities and risks arising from these," Mr Tang said.

Public consultation on the proposal is yet to start, and it is therefore difficult to foresee how press freedom will be affected. However, given the oppressive nature of the National Security Law imposed by Beijing on Hong Kong in June 2020, liberalisation of the official secrets law is unlikely, if not impossible. Disturbingly, the government is considering whether a new law is needed to deal with "fake information" or "fake news".

A number of foreign correspondents privately expressed worries about the enactment of Article 23 legislation after Mr Tang's remarks. They are afraid that they will become targets of the new law, which could easily be abused. This author has learned from anonymous sources that the Hong Kong bureaus of some Western media outlets have been scaled down and one news agency has even sold its premises to allow greater flexibility over any decision to leave.

Hong Kong's international status will be weakened without the presence of foreign media outlets, especially those from the West. Their departure will most certainly affect Beijing's stated aim of maintaining the city's international status, not least by

**During her time as chief executive, Ms Lam also used the Emergency Regulations Ordinance to deprive millions of Hong Kong residents of their voting rights in two important elections**

undermining the enjoyment of press freedom in particular, and freedom of expression in general.

**Legal protection for journalistic material declines**

In 1993, the HKJA called for a review of the search and seizure powers contained in the Police Force Ordinance as they pertain to journalistic material. These efforts resulted in the introduction in 1995 of special procedures in the Interpretation and General Clauses Ordinance to limit the powers of the police to search and seize journalistic material. Sections 81 to 89 of the law set up a three-tier mechanism for the disciplinary forces to apply to the District or High Court for search warrants if journalistic material is involved. The provisions are important to maintain the independence of news media and to protect confidential sources, which helps maintain public trust in journalistic work.

The enforcement of the law was imperfect, but it did give protection to media outlets in certain cases. For example, the police failed to secure production orders from the High Court

in an inter partes application involving five media outlets that filmed a deliberate attack by seven police officers during the Occupy protest movement in 2014. However, the anti-corruption agency succeeded in several ex parte applications to secure search warrants which allowed the authorities to examine journalistic material, prompting uproar in the news industry in 2004 when the authorities carried out searches involving seven media outlets.

The application of the National Security Law changed all that when the police National Security Department searched the offices of *Apple Daily* in mid-June 2021. Department head Steve Li Kwai-wah legitimised their action by getting a warrant under article 43(1) of the law and its Implementation Rules. The provision empowers the police to apply under the laws in force to search premises and electronic devices that may contain evidence of an offence endangering national security, including that contained in journalistic material.

*Apple Daily's* founder, Jimmy Lai Chee-ying, whose mobile phones and other journalistic material had been seized in an earlier operation in August 2020, objected to the unsealing of the seized journalistic material, including his mobile phones. Mr Lai took the case to the High Court, which held in late August 2022 that the phrase "any material" in the National Security Law referred to all sorts of materials, meaning it would be unreasonable to exclude journalistic material. Mr Lai is appealing to the Court of Appeal, with a hearing date yet to be fixed.

**Access to information law a no-go area?**

Another partial, but far from satisfactory, success of the HKJA's law reform effort in 1993 was the introduction of a non-binding government Code on Access to Information. The administrative code was implemented in March 1995 after the colonial government rejected the call for the enactment of access to information legislation, which would give individuals the right to seek and obtain government documents.

The campaign alliance, including the HKJA and legislators, argued that the government's approach was "fundamentally inadequate" and worried that an administrative code of practice could be scrapped or ignored at will. Moreover, the ombudsman, the Commissioner for Administrative Complaints, has no powers to force the government or public bodies to release documents or information.



Media Tycoon and *Apple Daily* founder Jimmy Lai was sentenced to 14 months in prison in April 2021 for his role in 2019 pro-democracy protests. CREDIT: ISAAC LAWRENCE / AFP

**The free flow of information, sometimes mentioned alongside freedom of expression and a free and open news industry, used to be cited as one of the four pillars of Hong Kong's success.**

This did not stem Beijing's objection, saying even such a timid proposal violated the Sino-British Joint Declaration of 1984 that paved the way for Hong Kong's return to China in 1997. The then spokesman of China's Foreign Ministry, Shen Guofang, complained that the unilateral move by the British Hong Kong Government was "unacceptable to the Chinese side (of the Joint Liaison Group)".

Shen added that the proposals involved "major changes" to the operation of the government, and hinted strongly that the measure might be rescinded after 1997. China did not scrap the code after 1997 and ironically enacted its own law, the Open Government Information Regulation, to protect people's access to government information in 2019, although that measure's viability is open to debate.

Indeed, the question of whether to enact a freedom of information law in Hong Kong was referred to the Law Reform Commission. In December 2018, a sub-committee recommended that the government should enact such a law. Its chairman, Russell Coleman, said such a law "should be introduced to implement an access to information regime" so that Hong Kong would be in line with the practices of other developed countries.

However, there are serious doubts over whether the government will act on the recommendation, given its poor record in this area and the fact that it has been moving in the opposite direction, limiting access to information contained in databases held by the likes of the land and companies registries.

The free flow of information, sometimes mentioned alongside freedom of expression and a free and open news industry, used to be cited as one of the four pillars of Hong Kong's success. Donald Tsang Yam-kuen, in his roles as financial secretary, chief secretary and finally chief executive from 2005 to 2012, repeatedly made such statements.

Tsang proudly told legislators in 2003 that "the four pillars of Hong Kong's success are still intact and as sturdy as ever". He further spoke about "a high degree of freedom in the flow of information" being "essential not just to journalistic communication but also indispensable to Hong Kong as an international finance and business centre".

The Hong Kong government needs to put words into deeds and should think twice about enacting any legislation hampering the free flow of information. This is particularly important if the Hong Kong government is serious about completing the task set by Beijing of keeping the city's international status intact.

To better achieve this task, the government should seriously consider enacting a freedom of information law. It is the best way to demonstrate to the world its determination to uphold press freedom as well as freedom of expression. It is also the best way to enable officials to tell "good stories" about Hong Kong, as Chief Executive John Lee Ka-chiu encourages journalists to do. ■

## National Security Law guts press freedom

The Hong Kong government cites the increasing number of media outlets operating in the territory to rebut criticism about the impact of the National Security Law on press freedom. What it does not mention is that this increase is mainly due to an increase in the number of mainland regional media stationed in the territory. Nor does it acknowledge that at least 12 media outlets have closed because of the enforcement of the National Security Law during the period covered by this report - either directly or indirectly. The large number of media closures in a year or so is unprecedented in the history of Hong Kong.

The most prominent example involved the pro-democracy newspaper, *Apple Daily*, and the arrest of several senior members of its journalistic staff on national security charges. According to available records, 10 journalists and four companies have been prosecuted under the NSL or related sedition offences in the Crimes Ordinance because of their journalistic work, in a move that is nothing less than the crushing of press freedom. In addition, eight other people were either arrested or placed on wanted lists for sedition because of the roles they played in media outlets.

As pointed out in previous annual reports on freedom of expression compiled by IFJ affiliate the Hong Kong Journalists Association (HKJA), about 85 per cent of the owners or top executives of the city's major media outlets have been co-opted by the governments in Beijing or Hong Kong, with *Apple Daily* being the prominent exception. After the closure of *Apple Daily*, the media situation became more critical. Other media organisations tried to survive through cautious attempts at co-existence or relocation overseas. The result is a serious chilling effect on media outlets still in operation and the undermining of their vital watchdog role.

### The death of *Apple Daily*

The most significant targets of the crackdown were *Apple Daily*, founded by Jimmy Lai, and its parent company Next Digital. Since it was founded in 1995, the newspaper had fearlessly criticised the Chinese Communist Party and consistently supported universal suffrage for the election of Hong Kong's chief executive and legislature. It supported the July 1 anti-government marches, which were held annually to mark the 1997 handover of Hong Kong to the People's Republic of China, as well as the 2014 Umbrella Movement and the 2019 protests against the government's controversial extradition bill. It was sharply critical of the government's performance and exposed scandals involving senior officials.

*Apple Daily* faced severe blowback for taking such a stance. Its reporters were not allowed to report in mainland China and it suffered an organised boycott by advertisers. Some of its reporters were doxed, with their personal information being released online. From time to time, mainland Chinese media accused *Apple Daily* of being a propaganda machine that tarnished Hong Kong's reputation. One report described Jimmy Lai as "national scum" for acting as "a political tool for foreign forces working against China and messing with Hong Kong." On December 10, 2020, *Apple Daily* reported that Lai had been charged under the National Security Law with allegedly colluding with foreign forces.

Despite increasing political and economic pressure, *Apple Daily* continued to operate without restraints until the morning of June 17, 2021, when the national security authorities deployed more than 500 police officers to search the newspaper's office. They arrested five senior executives and took away at least 40 computers containing journalistic material.

*Apple Daily* was left in a precarious financial situation after then Secretary for Security John Lee Ka-chiu, who is now the territory's Chief Executive, ordered the freezing of its accounts. Although funds were available in other bank accounts for emergencies, Mark Clifford, an independent director of Next Digital, *Apple Daily's* owner, understood that once these accounts were used to cover items normally paid from the frozen accounts, the government would freeze them as well.

**Mainland Chinese media accused *Apple Daily* of being a propaganda machine that tarnished Hong Kong's reputation. One report described Jimmy Lai as "national scum" for acting as "a political tool for foreign forces working against China and messing with Hong Kong."**

One month before the June 17, 2021 raid, then Secretary for Security John Lee had already used the National Security Law to freeze *Apple Daily's* founder Jimmy Lai's 71 per cent stake in Next Digital, worth at that time about HK\$300 million (USD 38.2million), and the bank accounts of his three companies. This meant that he could no longer bail out *Apple Daily* as he had done in the past.

Under the Implementation Rules for Article 43 of the National Security Law, the Secretary for Security has the power to freeze assets without court approval if he has grounds to suspect that a certain person or organisation might endanger national security. However, the law does not set out clearly the grounds needed to justify such an order.

The freezing of the bank accounts resulted in a lack of funds to settle wages, printing costs and other bills, an insurmountable difficulty. Under these circumstances, and with the arrest of an editorial writer and an exodus of *Apple Daily* journalists, the newspaper had no option but to wind up its 26-year operation. The last issue was published on June 24, 2021, one week after the raid. The final edition sold a record-breaking 1 million copies.

Secretary for Security John Lee attempted to reassure the public that the raid would not affect press freedom. He argued that the law enforcement action was not meant to target journalistic work but to prevent "acts suspected of employing news work as a tool to jeopardise national security".

Senior Superintendent Steve Li Kwai-wah of the Hong Kong Police Force, who was in charge of national security issues,



Hong Kong financial secretary Paul Chan Mo-Po Chan sought privileges from the High Court of Hong Kong to liquidise Next Digital following the seizure of the news outlet's assets in June 2021. CREDIT: VERNON YUEN / NURPHOTO / NURPHOTO VIA AFP

told reporters that since 2019, *Apple Daily* and its online platform had published more than 30 Chinese and English articles calling on foreign countries to sanction Hong Kong and China. He did not elaborate. Ominously, he also said that the charge of collusion under the National Security Law did not mean that a media outlet needed a foreign partner. The maximum penalty for collusion is life imprisonment.

Eight media trade unions and organisations, including the HKJA, issued a joint statement to express fear in the industry about the search and seizure operation against *Apple Daily*. They also expressed concern that the National Security Law might be "weaponised" against news media, creating a chilling effect and self-censorship.

The UK, the US and the European Union said the police acts showed that the National Security Law was being used to suppress press freedom and freedom of expression. The US further alleged there was a political motive behind the laying of charges.

There were fears that dissident voices would no longer be heard after the closure of *Apple Daily*. Journalism professor Clement So said outspoken opposition voices could hardly survive in those newspapers still operating because without *Apple Daily* no other newspaper could take up the role of social critic. His colleague, Eva Chan, added this meant Hong Kong could no longer tolerate opposition voices and the closure was a blow to confidence in the city's "one country, two systems" governing principle.

**Table 1: Media outlets closed in response to the National Security Law**

NAME OF MEDIA OUTLET CLOSED	DATE OF CLOSURE
1. <i>Apple Daily</i> (Next Magazine included) (《香港蘋果日報》·含《壹週刊》)	June 24, 2021
2. <i>Post 852</i> (852郵報)	June 27, 2021
3. DB Channel* (加山傳播)	November 4, 2021
4. CLS (知線新聞)	December 28, 2021
5. <i>Stand News</i> (立場新聞)	December 29, 2021
6. Internet Broadcasting Hong Kong (香港網絡廣播新聞)	December 30, 2021
7. 香港獨媒新聞 (Chinese name only)	January 1, 2022
8. <i>Mad Dog Daily</i> (《癩狗日報》)	January 3, 2022
9. <i>Citizen News</i> (眾新聞)	January 4, 2022
10. <i>Dare Media HK</i> * (夠薑新聞)	January 6, 2022
11. <i>Polymer</i> (聚言時報)	January 7, 2022
12. FactWire News Agency (傳真社)	June 10, 2022

\*DB Channel and Dare Media HK continued to post statements or appeals on their Facebook pages very occasionally after they announced they would close.



Stand News editor Patrick Lam is handcuffed and escorted by police after the deployment of police to search the news outlets' Kwun Tong premises on December 29, 2021. Patrick Lam and other Stand News editors have since been charged with conspiring to publish seditious content. CREDIT: DANIEL SUEN / AFP

### Journalists charged with sedition

On December 28, 2021, Jimmy Lai and six former *Apple Daily* staff members were charged with the colonial-era offence of “seditious intent”, which is an indictable offence under the Crimes Ordinance. The Ordinance stipulates that it is a crime for anyone to bring into hatred or contempt or excite disaffection against the Hong Kong government or the administration of justice, including by publishing articles. The offence applies to any person who “prints, publishes, sells, offers for sale, distributes, displays or reproduces any seditious publication,” with the result that speech content alone can be criminalised.

Conviction solely depends on whether a person’s speech is deemed seditious. No action is necessary. The authorities can prosecute by inferring whether an author or publisher has seditious intent based on the content of an article alone, regardless of whether the remarks cause any disruption of public order or whether the seditious intent is actually achievable. On conviction, a first offender can be sentenced to two years in prison.

In May 2022, the case against Jimmy Lai and the six former *Apple Daily* staffers was transferred to the Court of First Instance for trial on a date yet to be fixed. The seven individuals continued to be remanded in custody pending trial. On August 22, 2022, Lai said he would plead not guilty to the charges under the National Security Law. If found guilty, he faces a possible sentence of life in prison.

Despite there being different penalties under the National Security Law and the Crimes Ordinance, most defendants charged under either immediately lose their personal freedom,

because the threshold for bail is higher than for other general offences. Bail is usually granted in most general criminal cases, but under the National Security Law “no bail shall be granted to a criminal suspect or defendant unless the judge has sufficient grounds for believing that the criminal suspect or defendant will not continue to commit acts endangering national security”.

Within less than half a year, a publicly listed media conglomerate with the largest readership in Hong Kong and more than 500,000 online subscribers was killed. Its rapid demise reflects a fundamental change in the way that the law is applied to Hong Kong media. In short, the National Security Law gave the Hong Kong government a powerful weapon to stifle private property rights, freedom of speech, personal freedom and even the way the rule of law is traditionally applied.

### Complete elimination of Next Digital

The Hong Kong authorities initiated a series of acts to force *Apple Daily's* owner, Next Digital, to cease operations. After the newspaper and its sister publication, *Next Magazine*, closed, the Hong Kong Stock Exchange wrote to Next Digital in July 2021, asking whether it could maintain sufficient business and had enough assets to remain listed. At the time, parent company Next Digital was continuing to run the online version of *Apple Daily* in Taiwan and North America, as well as printing and mobile games operations in Hong Kong.

Next Digital’s woes were exacerbated by the fact that four of the directors on its decision-making board had left Hong Kong and several senior executives were detained. Just one director still enjoyed personal freedom in Hong Kong. Further, Jimmy

Table 2: Media personalities charged

MEDIA OUTLET CONCERNED	PERSON / COMPANY CHARGED	CHARGE(S)
<i>Apple Daily</i> (closed) and Next Digital (liquidated)	Jimmy Lai, founder of <i>Apple Daily</i> and <i>Next Digital</i>	<ul style="list-style-type: none"> <li>conspiracy to collude with foreign forces</li> <li>conspiracy to pervert the course of justice</li> <li>conspiracy to publish seditious publications</li> </ul>
	Cheung Kim-hung, former CEO of Next Digital and former Publisher of <i>Apple Daily</i>	<ul style="list-style-type: none"> <li>conspiracy to collude with foreign forces</li> <li>conspiracy to publish seditious publications</li> </ul>
	Chan Pui-man, former Associate Publisher	<ul style="list-style-type: none"> <li>conspiracy to collude with foreign forces</li> <li>conspiracy to publish seditious publications</li> </ul>
	Ryan Law, former Editor-in-Chief	<ul style="list-style-type: none"> <li>conspiracy to collude with foreign forces</li> <li>conspiracy to publish seditious publications</li> </ul>
	Lam Man-chung, former Executive Editor-in-Chief	<ul style="list-style-type: none"> <li>conspiracy to collude with foreign forces</li> <li>conspiracy to publish seditious publications</li> </ul>
	Fung Wai-kong, former Editor-in-Chief of the English section	<ul style="list-style-type: none"> <li>conspiracy to collude with foreign forces</li> <li>conspiracy to publish seditious publications</li> </ul>
	Yeung Ching-kee, former editorial writer	<ul style="list-style-type: none"> <li>conspiracy to collude with foreign forces</li> <li>conspiracy to publish seditious publications</li> </ul>
	<i>Apple Daily</i> Limited	<ul style="list-style-type: none"> <li>conspiracy to collude with foreign forces</li> <li>conspiracy to publish seditious publications</li> </ul>
	<i>Apple Daily</i> Printing Limited	<ul style="list-style-type: none"> <li>conspiracy to collude with foreign forces</li> <li>conspiracy to publish seditious publications</li> </ul>
	AD Internet Limited	<ul style="list-style-type: none"> <li>conspiracy to collude with foreign forces</li> <li>conspiracy to publish seditious publications</li> </ul>
Stand News (closed)	Chung Pui-kuen, former Editor-in-Chief	<ul style="list-style-type: none"> <li>conspiracy to publish seditious publications</li> </ul>
	Patrick Lam, former Acting Editor-in-Chief	<ul style="list-style-type: none"> <li>conspiracy to publish seditious publications</li> </ul>
	Best Pencil (Hong Kong) Limited	<ul style="list-style-type: none"> <li>conspiracy to publish seditious publications</li> </ul>
Online radio channel D100	Wan Yiu-sing (better known as “Giggs”), former program host	<ul style="list-style-type: none"> <li>actions “with a seditious intention”</li> <li>money laundering</li> </ul>

**The National Security Law gave the Hong Kong government a powerful weapon to stifle private property rights, freedom of speech, personal freedom and even the way the rule of law is traditionally applied.**

Lai’s 71 percent stake had been frozen, so he could not exercise his voting rights.

Another way to wind up Next Digital was liquidation. At the end of July 2021, Financial Secretary Paul Chan Mo-po appointed an inspector to probe whether Next Digital had been mismanaged. After the inspector presented his interim report in mid-September, together with the findings of the Hong Kong Securities and Futures Commission, Mr Chan presented a petition to the Court of First Instance to wind up Next Digital. In mid-October 2021, the court granted the Financial Secretary’s application to appoint provisional liquidators to handle company assets and conduct negotiations to sell its Taiwan and Hong Kong operations.

More than three months before the liquidation application was heard in the High Court in mid-December, the four remaining Next Digital directors resigned. With no legal representative sent by Next Digital to the hearing, nor any objections from anyone else, the court ordered its immediate liquidation.

### News outlets adapt to survive

Facing extreme changes in the environment affecting freedom of expression, media organisations had few choices. One was to be cautious in an attempt to avoid political red lines and co-exist with the National Security Law, while being prepared for the worst to minimise losses.

Three days after *Apple Daily* closed, online media outlet *Stand News* announced that while it would continue to adhere to its existing editorial policy, it would immediately take down commentaries published before June 2020 to reduce the risk of crossing national security red lines. It also stopped accepting sponsorship to avoid wasting supporters’ money in case its website was forced to shut down.

At the same time, the outlet prepared for the worst by laying off employees with compensation and re-employing them to avoid being unable to pay severance pay and wages in case its assets were frozen. Six of eight board members resigned, leaving two in place.

Traditional outlets tried to coexist with the authorities under the new conditions while keeping all articles. *Ming Pao* newspaper, which publishes commentaries and columns every day, reacted by adding an annotation similar to a disclaimer at the end of every article: “Criticisms, if any, in current affairs articles published on this website are aimed at pointing out errors or drawbacks in the relevant systems, policies or measures, with the purpose of prompting correction or elimination of these errors or drawbacks, and improvement via lawful means. There is absolutely no intention to incite





Hong Kong Police officers gather outside the High Court on July 30 for the trial of Tong Ying-Kit, the first person to be tried under the 2020 Hong Kong National Security Law. CREDIT: ISAAC LAWRENCE / AFP

hatred, dissatisfaction or hostility in other people against the government or other communities.”

Despite *Ming Pao* posting its disclaimer, controversy erupted the next day. An article called the authorities’ arrest of media bosses a “large-scale reprisal” which had the effect of diverting attention from the fact that “people’s hearts have not yet returned”, as reflected by the low voter turnout in the December 2021 Legislative Council elections.

Three days later, Beijing’s main mouthpiece in Hong Kong, *Ta Kung Pao*, published a commentary questioning whether *Ming Pao* meant to take over *Apple Daily*’s seditious role, and pointed out that the disclaimer attached to the article did not work. Commissioner of Police Raymond Siu Chak-ye made a similar point, saying the disclaimer could neither offer protection nor relieve the paper of criminal responsibility for law-breaking speech.

No action was taken against *Ming Pao*, but the comment raised fears that a newspaper could not rest easy even if its articles that were critical of the government did not provoke violence, hatred or disaffection.

### Media and journalists seek safety overseas

Some news outlets attempted to keep going by relocating outside the territory. *Initium Media*, a subscription-based digital media outlet providing in-depth news that was launched in Hong Kong seven years ago, moved its headquarters to Singapore in August 2021. Chief Executive Editor Jing Wu said in an open letter to readers on its sixth anniversary that “the road to freedom has grown more challenging” over the past six years, as Hong Kong’s global press freedom ranking

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plummeted. She did not explain whether the decision to move was related to the National Security Law, only stressing that *Initium Media* would continue to produce features on current affairs in mainland China, Hong Kong and Taiwan and keep an eye on global changes.

Individual journalists also opted to leave. Veteran Steve Vines, who had resided in Hong Kong for 35 years, announced his departure in August 2021. He conceded that he left Hong Kong for Britain out of fear of the “white terror” under the National Security Law and pointed out that “no one in their right mind can possibly assert that Hong Kong is a safe place for journalists”. He revealed to Britain’s *Financial Times* that he had been targeted by pro-Beijing people and received warnings.

### Media outlets close voluntarily

The most radical response by media houses to the new environment was to close voluntarily before the authorities

could impose the same outcome by force. Three days after *Apple Daily* ceased publication, digital media outlet *Post 852* removed all its videos in view of “the plummeting political atmosphere.” *Rice Post*, which had attracted 40,000 likes, closed its Facebook page on July 1, 2021, citing “insufficient staff.”

Another digital media outlet, DB Channel, which had won Human Rights Press Awards in Hong Kong, folded in November, purportedly because its founder, Frankie Fung Tat-chun, was denied bail after being arrested over his participation in a pan-democrat primary election for the Legislative Council. He was accused of conspiracy to commit subversion and remanded in custody pending trial. His bid for bail was rejected – reportedly over an allegation that DB Channel was a “seditious platform”. The online outlet then laid off all its staff.

Most media organisations took a wait-and-see attitude until *Stand News* shut down (see below) under immense pressure from the national security authorities. Founded in late 2014, the online outlet emphasised editorial independence, adhering to reporting the truth and safeguarding the core values of democracy, freedom and human rights. It operated on a non-profit basis and had repeatedly won press awards. It twice topped the ranking of online news media credibility based on surveys by Chinese University of Hong Kong.

After protests broke out in 2019 against the government extradition bill, which allowed for accused people to be sent to the mainland for trial under Chinese law, *Stand News* live-streamed protests and clashes between police and demonstrators for hours on end. From time to time, it was targeted by the police and government supporters. Many of its reports were criticised by senior government officials and pro-Beijing media.

### Bell tolls for *Stand News*

On the morning of December 29, 2021, police deployed 200 officers to raid the *Stand News* headquarters, arrested six incumbent and former directors, and froze HK\$61 million in funds. That afternoon, *Stand News* announced that it would shut down immediately, lay off more than 60 staff and close its bureau in the UK. Commenting on the police action, former Secretary for Security, John Lee, who had by then been promoted to Chief Secretary, vowed to hit hard at “evil elements” who allegedly used their position as members of the media to pursue unlawful ends.

However, behind the stern words it was clear that this was another attack on the written word. The authorities, on the basis of published content alone, presumed that articles carried seditious intent and pressed charges. Senior Superintendent Steve Li said very clearly that many articles by *Stand News* were seditious, aimed at inciting hatred against the government and the Hong Kong judiciary and inciting other people to use violence. He said other articles endangered national security, incited secession and subversion of state power, or called on foreign governments to impose sanctions on Hong Kong and mainland China.

In June 2022, the outlet’s former Editor-in-Chief, former acting Chief Editor and its parent company faced a single charge of “conspiring to publish seditious publications.” No national security charges were laid, but *Stand News*’ assets remain frozen. The trial was set to begin on October 31, 2022.

Given the precedent of *Apple Daily*, it was no surprise that *Stand News* folded quickly. The warning bell at this



Police escort deputy chief editor Chan Pui Man from the offices of *Apple Daily* on June 17, 2021. The arrest of five senior executives and editors, and the freezing of *Apple Daily*’s parent company Next Digital’s Assets were responsible for the newspaper’s closure. CREDIT ANTHONY WALLACE / AFP

time was national security official Steve Li’s statement that the definition of “seditious publications” was not limited to opinion articles, but also included news reports. He explained that the security forces’ focus was not on a certain type of news, such as reports about international sanctions, but on reports that were seen as being intended to incite sedition. In other words, all reports were within the scope of national security investigations.

According to reports, news articles in breach of the law included interviews with Uyghurs criticising the conditions in Xinjiang’s re-education camps; exiles talking about international sanctions; an exclusive interview with Gwyneth Ho Kwai-lam, a journalist turned activist who was remanded in custody pending trial in connection with a pan-democrat election primary; and a report on Chow Hang-tung, the former vice-chairwoman of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China, winning the “Outstanding Democrat of China” award.

Police also criticised an article regarding the second anniversary of the “CUHK Conflict”. It involved interviews with Chinese University of Hong Kong graduates and reviewed the violent clashes in 2019 between police and students on the university campus during the movement against the government’s extradition bill. The article was accused of “inciting hatred against the police” and glorifying illegal acts.

### More news outlets shutter

The political red line was stretching into news reporting and prompting a wave of closures. Online media outlets such as CLS, Hong Kong Independent Media News, and Internet Broadcasting Hong Kong quickly folded. CLS said it was no longer possible to ensure the safety of journalists and photographers under the National Security Law. Hong Kong Independent Media News decided to shut down for fear of accidentally violating the National Security Law.

On January 2, 2022, the five-year-old, award-winning online media outlet *Citizen News* decided to close. Chief Editor and Chief Executive Officer of *Citizen News*, Daisy Li Yuet-wah, explained that the rapid changes in society meant she could no longer ascertain whether a report or even a



**Chief Editor and Chief Executive Officer of *Citizen News*, Daisy Li Yuet-wah, explained that the rapid changes in society meant she could no longer ascertain whether a report or even a sentence would breach the law.**

*Citizen News* chief editor Daisy Li (L) and chief writer Chris Yeung (R) attend a press conference at the company's office in Hong Kong on January 3, 2022, after the news outlet announced its closure on January 2. CREDIT: BERTHA WANG / AFP.

sentence would breach the law. At the time *Stand News* shut down, *Citizen News* Chief Writer Chris Yeung Kin-hing had already worried about the wide boundaries of sedition, as a factual report which pointed out the shortcomings of the epidemic prevention policy and caused citizens to resent the government could also be construed as seditious. Four days later, he admitted that he could not clearly grasp the boundaries of law enforcement and could barely ensure the safety of news staff. The outlet therefore had no alternative but to cease operation.

One day later, *Mad Dog Daily*, which was founded by well-known current affairs commentator and former legislator Raymond Wong Yuk-man, announced the closure of its website and Facebook page. Wong explained that when *Stand News'* opinion articles were deemed seditious, it was inevitable that *Mad Dog Daily* would be incriminated. At the same time, another online media outlet founded by Wong, MyRadio, took down all the current affairs programmes it had produced in Hong Kong.

Headquartered in Washington DC, Radio Free Asia suspended production of current affairs programs by its Cantonese channel in Hong Kong to avoid risks. An email addressed to commentators and hosts in February noted that "national security red lines" were everywhere in Hong Kong, and the freedom of speech accorded to locally-based commentators and hosts under Hong Kong's Basic Law was not protected by Hong Kong and Chinese laws. It therefore decided to suspend the production of three current affairs commentary programmes, including those hosted by China expert Johnny Lau Yui-siu and social policy scholar Chung Kim-wah.

Online media outlet *Passion Times* was directed by national security personnel to delete some content that "endangered national security" in mid-May 2022. The person in charge of the outlet immediately deleted the content. The police did not take further action. This raised the question of why authorities asked for content to be removed if it did not breach the law. Police refused to comment on the facts of the case, and *Passion Times* was unwilling to disclose what content it had taken down.

FactWire News Agency continued to operate as if nothing had happened. Founded in 2015 through crowdfunding, the agency focused on investigative reporting. It won numerous press awards in Hong Kong and the region. Its subscribers included not only local media organisations, but also international media such as the BBC, Reuters and the *Financial Times*.

In April 2022, FactWire revealed that both sons of John Lee, the only candidate for Hong Kong's Chief Executive, worked with members of the Election Committee, the function of which is to select Chief Executive, namely, Mr Lee. In early May, the agency also discovered a built-in face recognition feature in the Android version of Hong Kong's LeaveHomeSafe anti-covid app that users were completely unaware of.

A day later, the outlet was hacked and the email addresses of more than 3,700 subscribers exposed. On June 10, the agency announced: "It is time for us to bid you farewell." It shut down the same day without explanation. It did not mention any financial difficulties.

### The death of press freedom

Under the pressure of the National Security Law and the sedition law, two major independent media organisations that had always supported democracy, and that had significant readerships, collapsed one after the other. At least 10 smaller independent media outlets, finding the risks unbearable, also disbanded of their own accord. As a result, investigative reporting and commentaries critical of the government have become so rare as to be almost non-existent.

A year later, only a handful of independent media outlets remain. They cannot help but have misgivings in their search for a space to operate between political red lines. Some remain committed to the ideal of journalism as a watchdog of the powers that be. But even they must now consider things they formerly condemned – such as self-censorship, avoiding sensitive topics or mainstreaming trivial stories – as part of their survival toolkit. In this dire situation, if press freedom is not yet certified dead, at least its death knell has been sounded loudly. ■

## Dissenting news media forge ahead

The enactment of the National Security Law in Hong Kong on June 30, 2020 was a watershed in media diversity in the territory. At least 12 dissenting news providers closed in the year following *Apple Daily's* closure on June 24, 2021, and at least 10 publishers and executives were arrested.

At the same time, new media outlets of varied orientations emerged. Some are based outside Hong Kong, as an increasing number of journalists leave due to concerns about personal safety and the grim prospects for the territory. These new services are mostly digital operations that reach only those with internet access.

The phrase alternative media usually refers to providers that advocate specific sets of values and follow models of operation different from those of mainstream media. But dissenting media also includes certain rebellious elements in the mainstream media and uncompromising digital news media providers that do not shy away from sensitive topics in the way that politically compliant mainstream news media do.

### Key news providers closed

The closure of *Apple Daily* on June 24, 2021 was the most significant development in the decline of the dissenting media. Launched in 1995 – two years before Hong Kong was handed back to China – *Apple Daily* soon attracted the largest audited circulation in the territory. Sales reached more than 400,000 copies daily in 2000 before numbers started to decline. It then became the most popular digital news service, with its website recording an average of 40 million daily views and more than 2.4 million unique daily users since 2017, thanks partly to the popularity of its animated news product.

After the protests in 2019-20 against a controversial bill that would have allowed people charged in Hong Kong to be

extradited to mainland China for trial, the numbers of digital subscribers increased to 700,000. In June 2021, *Apple Daily's* Facebook page had 2.835 million followers.

In its 26 years of existence, *Apple Daily's* outspoken criticism of the Chinese Communist Party helped cultivate a culture of defiance and won it the description of being Hong Kong's "largest pro-democracy newspaper" among US and British publications.

*Stand News*, which shot to fame following its in-depth live coverage of the 2019-20 street protests and riots, was the second dissenting news provider forced to cease operation under the National Security Law. The closure came after police seized all newsroom computers on December 29, 2021. The predecessor of *Stand News* was *House News*, whose website recorded 300,000 unique daily visitors before its proprietor, Choi Tung-ho, closed its operation citing political fears on July 26, 2014. After a restructuring, *Stand News* was launched in December 2014. On July 1, 2020, its Facebook page had a following of 1.65 million, second only to *Apple Daily*.

Other dissenting news providers that have closed include *Citizen News*, a service focused on political news headed by a team of senior journalists, *Next Magazine* (published by Next Media, which owned *Apple Daily*), *Post 852* and *Mad Dog Daily*.

**Dissenting media also includes certain rebellious elements in the mainstream media and uncompromising digital news media providers that do not shy away from sensitive topics.**

The screenshot shows the InMedia website interface. At the top, there is a search bar and a navigation menu. A prominent banner at the top right encourages monthly subscriptions with a PayPal logo. The main content area features a large article with a photo of a man reading a document, titled "原定十日後赴英參加 牛津大學路透研究所學人計劃 記協主席陳朗昇 被起訴阻差辦公 周四提堂". Below the article, there is a "Small donation to support independent media" section with a dropdown menu set to "\$100.00 HKD" and a PayPal button. A "Latest articles" section is visible at the bottom right.



Meme Hong Kong YouTube channel currently has over 846K subscribers and over 1.668 million combined views. CREDIT: MEMEHK

**Apple Daily's outspoken criticism of the Chinese Communist Party helped cultivate a culture of defiance and won it the description of being Hong Kong's "largest pro-democracy newspaper" among US and British publications.**

**News media take up the challenge**

Inmedia Hong Kong started as a web-based citizen news operation in 2005 through donations made by academics and activists. It continues to publish free-to-access activism-related news on multiple digital platforms. In December 2021, its 17-member operation relied mainly on subscription revenue to cover a monthly budget of HK\$227,000 (approx. USD 28,917). With similarly positioned news providers disappearing, Inmedia grew into the most viewed pro-democracy news provider. Its Facebook following increased from 682,300 in July 2020 to 823,000 in July 2022, while its Instagram account had a following of 332,000.

Another prominent digital news outlet is *Initium Media*, which specialises in in-depth reporting targeting mainland China, Hong Kong and Taiwan. When it was launched in 2015, the source of its capital – from overseas-educated Chinese professionals – drew concern about its editorial position. Over time, its bold and critical reporting won multiple journalism awards, including on topics related to democracy and human rights. *Initium's* subscribers increased from over 50,000 in April 2020 to 60,000 and its Facebook following increased from 335,000 in July 2020 to almost 380,000 in July 2022, when its Instagram account had 122,000 followers. It moved its headquarters to Singapore in August 2021.

The English-language *Hong Kong Free Press*, established in 2015, describes itself as an "impartial, non-profit," and "100% independent" award-winning online newspaper. It seeks to "amplify the voices of the voiceless, not the powerful" and prides itself on producing balanced coverage. Relying on one-off and monthly reader contributions, *Hong Kong Free Press* content is accessible free of charge. In July 2022, its Facebook page had 370,000 followers and its Instagram account 159,000.

**Critical news commentary perseveres**

News reporting aside, many commentary services are continuing and have gained popularity since the closures of the key dissenting news outlets. News commentary products typically revolve around prominent individuals, often called 'key opinion leaders', and rely on YouTube public channels for fee-free distribution, although some also provide paid access on other digital platforms.

The most popular pro-democracy news commentary service, *Meme Hong Kong*, was started in 2013 by long-time media personality Stephen Shiu Yeuk-yuen, who was previously involved in a series of internet-based news commentary operations. In mid-June 2022 *Meme Hong Kong*, which specialises in China and world news commentary, had 835,000 subscribers and an accumulated 150 million views on its YouTube channel.

The news commentary program hosted by anti-Communist former lawmaker Raymond Wong Yuk-man on the alternative web radio station, My Radio Hong Kong, was rebroadcast as a YouTube channel with 300,000 subscribers. The YouTube news commentary channel *Singjai* has 300,000 subscribers. *Singjai* was launched as a web radio station in 2014 by pro-democracy political analyst Simon Lau Sai-leung, who has since moved to Canada.

The YouTube channel of former D100 web radio host San Pu, who is now living in Taiwan, saw its subscription base rise from 3,330 in November 2020 to more than 80,000 in July 2022. The former host of RTHK's *Headliner* news satire program, Tsang Chi-ho, who also moved to Taiwan, has seen the subscription numbers for his news commentary *Chi Ho Live Show* on YouTube grow from over 50,000 in May 2019 to 220,000 in July 2022. His former *Headliner* co-host, Ng Chi-sum, who now lives in the UK, is reaching 300,000 subscribers with his YouTube offering, Ng Sam, up from more than 50,000 in 2019.

Other popular news-related commentary programs on YouTube are Gavin Chiu Sin-hin's reviews of China affairs books, *Chiu's Reading* (286,000 subscribers), Jeff Tsui Siu-wa's *Tsuis Talk* (172,000 subscribers) and Elmer Yuen Gong-yi's *Papa Yuen*: Yuen Gong-yi's political and economic commentaries (200,000 subscribers).

**New services launched**

Adding to existing news providers and commentary programs are so-called "self-media" services and small news ventures founded and operated mainly by journalists from recently closed dissenting media outlets. They cover a wide variety of news and cater to interests of specific audiences. As listed (see table), former *Apple Daily* employees from different sections of the newspaper have started at least 10 news services, mostly specialising in specific content.

Among them, *Channel C* is the only comprehensive news product that has openly positioned itself as a continuation of *Apple Daily*, branding itself with the slogan "speaking for the people, fighting against injustice". However, in a departure from *Apple Daily* practice, *Channel C* rarely reports on the trials of those arrested during the 2019-20 unrest or takes a critical approach towards the political authorities. One of the founders admitted to *Stand News* on July 13, 2021 that their content did not necessarily contain strong news elements.

By contrast, *The Witness*, which was launched by court reporters of shuttered dissenting news organisations, is helping to keep news about those arrested on the radar of news audiences.

*Green Bean Media* is the most recent of the new dissenting outlets. Established in June 2022 by former RTHK journalists involved with the *Hong Kong Connection* program, it is devoted to documenting stories of Hongkongers, both those who stay in Hong Kong and those who leave, in long-form video journalism. In less than a month, it has built a following of 56,600 on YouTube and 31,500 on Facebook.

Another service, *Hong Kong Matters*, was initiated by Stephen Shiu Yeuk-yuen. It was launched as part of the Hong Kong Metas project, which seeks to maintain Hong Kong culture. *Hong Kong Create City Stories* was founded by a former reporter of *Citizen News*. It has published an exclusive story investigating the multiple accidents that occurred at the July 2022 concerts of the boy group Mirror.

**News reporting aside, many commentary services are continuing and have gained popularity since the closures of the key dissenting news outlets.**

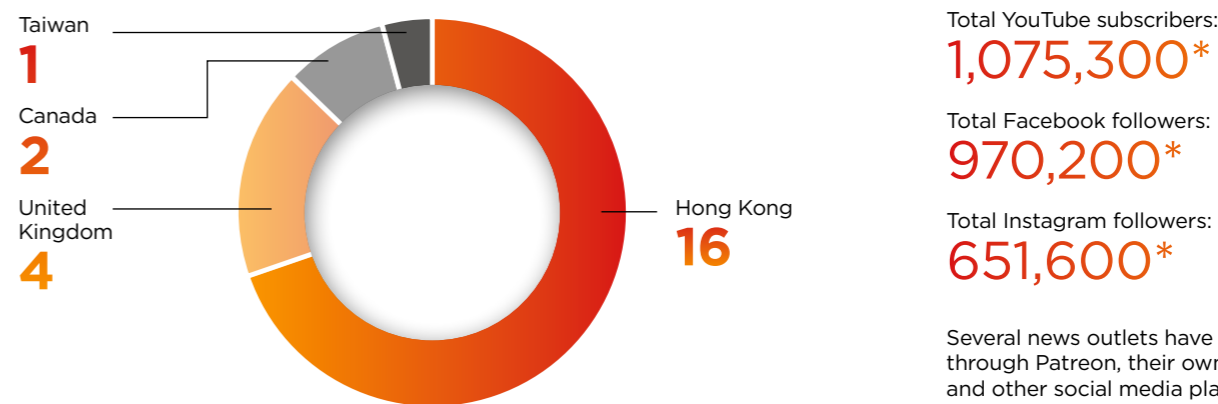
Other services were launched overseas. *HongKonger Station* was launched in Canada as a pro-Hong Kong information service by performer Joseph Tay, who supported the movement against the extradition bill when he was living in Hong Kong.

*Commons* was established in Taiwan as a comprehensive news outlet with the aim of connecting Hongkongers inside and outside Hong Kong. *The Chaser* is another news service set up by former Hong Kong journalists, in this case living in the UK. Its mix of news stories is similar to that of a traditional news organisation for Hongkongers. It openly states its goal is protecting press freedom and safeguarding democracy and human rights, and stresses that the guiding principle of its journalism is the pursuit of truth.

Even compared to *Inmedia Hong Kong* and *Channel C*, most of these news services are small in scale (see table), relying mainly on part-time reporters and editors. The "self-media" news services, run by individual former journalists, are even smaller. Two of these outlets are run by former special topic reporters for *Apple Daily*: Alvin Chan seeks to adhere to the critical values he cherishes in his reporting, while Leung Ka-lai focuses on recording stories of those affected by recent changes in Hong Kong.

Former *Stand News* reporter Lam Yin-pong's *ReNews* and former *Cable News* journalist Lam Miu-yan, (who became a freelancer after the broadcaster's entire News Lancet team resigned in late 2020) concentrate on analysis more than reportage. Former *TVB* news reader Chris Wong, now in the UK, offers mainly video newscasts based on second-hand news. However, Wong's *CWR NewsPost UK* has prompted scepticism about his pro-democracy credentials given his previous role in the Beijing-leaning *TVB*.

**Table 3: News services launched since 2019-20**



Several news outlets have followers through Patreon, their own websites and other social media platforms.

\*Statistics at September 2022



A screenshot from showing search results under the #KOL100 hashtag on October 13, 2022. The KOL100 project was initiated by New People's Party lawmaker Dominic Lee Tsz-king and aims to strengthen pro-government votes through promoting 'key opinion leaders' or influencers. CREDIT: YOUTUBE

**To reproduce the social and cultural impact on a scale once exerted by the crushed dissenting media outlets may require a new model of operation that can integrate and coordinate the various small news ventures and "self-media".**

### China-supporting services launched

Countering pro-Hong Kong platforms are multiple China-supporting news services created since the early 2000s. *Kwun Media* is a digital new provider, while the others are commentary services.

The most prominent China-supporting service is KOLHK, hosted by New People's Party's lawmaker Dominic Lee Tsz-king. Lee initiated the KOL100 project with pro-establishment politicians defeated in the 2019 District Council elections with the aim of gathering 100 pro-establishment Key Opinion Leaders (KOLs) to strengthen pro-government voices. Lee's YouTube channel subscription numbers rose from over 20,000 to 330,000 and has accumulated more than 100 million views in two years.

Another lawmaker, Joephy Chan Wing-yan of the Hong Kong Federation of Trade Unions, set up a YouTube channel in December 2019. It has 300,000 subscribers and has accumulated more than 80 million views.

Among non-politician pro-establishment news commentators, Alex Yeung's Channel reached 266,000 subscribers in mid-June 2022 and 140 million views since its launch in July 2019. Master Sin's Talk by Checkley Sin Kwok-lam, a businessman who once announced he would run for the post of Hong Kong chief executive, has recorded almost 157,000 subscribers and 28 million views since October 2019.

### Prospects for dissenting outlets uncertain

The geographical distribution of the new dissenting services gives hope that the resistance underlying the Hong Kong identity can survive the ongoing large-scale outward migration from the territory. However, news media based outside Hong Kong, while enjoying greater freedom in reporting and publishing, inevitably lack the "on the ground" nature of domestically based news media. Different news cycles due to time differences also make it difficult for media outside Hong Kong – especially those in the UK and Canada – to ride on the public opinion cycle of developing news to exert a strong impact on the domestic audience.

Production-wise, small-scale dissenting media organisations have limited resources and may not be able to afford in-depth or investigative reporting, hindering their watchdog role. Such groups also lack the access to news sources enjoyed by mainstream news organisations.

Chinese University of Hong Kong journalism and communications professor Francis Lee Lap-fung said in an interview with *Radio Free Asia* that the closure of successful news organisations like *Apple Daily*, *Stand News*, and *Citizen News* will undermine the role of the media in monitoring the power holders. Moreover, the lack of access

to government events of the dissenting media deprives their journalists of the opportunity of asking critical questions and inhibits news media from playing the role of monitoring the political authorities. Sadly, although this opportunity is available to mainstream news media in Hong Kong, it is not helping the media in its role of monitoring the government.

On March 16, 2022, for example, a NOW News reporter asked at a government press conference who would bear responsibility if the medics sent by the government in Beijing to help Hong Kong fight Covid-19 – who were not licensed to practise in Hong Kong – made a medical error. One of China's official newspapers in Hong Kong, *Ta Kung Pao*, claimed that the reporter's question triggered public anger. The following day, *NOW News* issued a statement and apologised over the case. In several other similar cases, which involved *Cable News* and *TVB News*, the reporter in question received a warning from their supervisor after asking government officials a critical question or putting the authorities in a negative light in their news reports. ■



A screenshot from Channel C HK on September 7 2022 reports on the arrest of HKJA Chair Ronson Chan. Channel C HK is one of Hong Kong's largest independent media outlets and has presented itself as a successor to the shuttered *Apple Daily*. CREDIT: CHANNEL C HK

## News services launched in 2021-2022

### 2021

#### *HongKonger Station* (香港台)

Location: Canada - launched January 2021  
 Founder: Joseph Tay and Fiona Yellow  
 Content: Original content - Cantonese current affairs and information offerings that connect Hongkongers with Canadian society  
 Reach: YouTube 121,000 subscribers; Facebook 22k followers; Instagram 3.6k followers  
 Business model: No information available

#### *Flat Out* (地板油)

Location: Hong Kong - launched June 2021  
 Click through for more detail  
 Founder/s: Former reporters of *Apple Daily*  
 Content: Original content - Reviews and test reports of cars and car components  
 Reach: YouTube 82k subscribers; Facebook 15.9k followers; Instagram 31.7k followers  
 Business model: Advertisements, readers' financial contribution via Pay Me, paid content, free access

#### *Sportsone* (體壹)

Location: Hong Kong - launched July 2021  
 Founder: A former sports reporter of *Apple Daily*  
 Content: Original content - Sport news  
 Reach: Facebook 80k followers, Instagram 25.9k followers; YouTube 7k subscribers  
 Business model: Patreon membership, free access

#### *Stockwing* (股榮)

Location: United Kingdom - *Apple Daily* section; continued after closure of *Apple Daily* in June 2021  
 Founder: A former financial editor and commentator of *Apple Daily*  
 Content: Original - Stock market news  
 Reach: Mainly on Patreon; Facebook 80k followers  
 Business model: Patreon membership - restricted content

#### *Channel C HK*

Location: Hong Kong - launched July 2021  
 Founder/s: Five former journalists of *Apple Daily*  
 Content: Original content - City, crime, and culture news  
 Reach: YouTube 200k subscribers (over 60 million views); Facebook 100k followers; Instagram 200k followers, Website  
 Business model: Paid membership started in May 2022, advertising, paid content, free access

#### *BossMind*

Location: Hong Kong - launched July 2021  
 Founder/s: Former reporters of the financial news section of *Apple Daily*  
 Content: Original - Business news  
 Reach: Facebook 37k likes; YouTube 23k subscribers; Instagram 6.3k followers  
 Business model: Advertising, paid content, free access, YouTube advertising revenue split

#### *Dreamhouse; Global Dreamhouse*

(Wendy全球樓行; 全球樓行)  
 Location: Hong Kong, United Kingdom, Canada - *Apple Daily* section; continued after closure of *Apple Daily* in June 2021  
 Founder: A former property news reporter of *Apple Daily*  
 Content: Original content - Property news and migration information  
 Reach: Facebook 11k followers; YouTube 3k subscribers; Instagram 800  
 Business model: Patreon membership, seminars, courses

#### *As One* (娛壹)

Location: Hong Kong - launched July 2021  
 Founder/s: Former journalists of *Apple Daily* and *NLocation:t Magazine*  
 Content: Original content - Entertainment news  
 Reach: Facebook 297k followers; Instagram 198k followers; YouTube 10.7k subscribers  
 Business model: Patreon membership, advertising, free access

#### *Gadget Gang HK*

Location: Hong Kong - launched August 2021  
 Founder/s: Former reporters of *Apple Daily*  
 Content: Original - News and reviews of technology products  
 Reach: YouTube 62k subscribers; Facebook 14k followers; Instagram 10k followers; Line 380 followers  
 Business model: Advertising, Patreon membership, paid content, free access

## 2021 (continued)

### One News (壹報)

Location: Hong Kong – launched September 1 as hard copy. Moved online after October 9.  
 Founder: Former sports, entertainment, and horseracing reporters at *Apple Daily*  
 Content: Original – Sports and Entertainment news suspended on December 31, now  
 Reach: Facebook 8k followers, Patreon  
 Business model: Patreon membership, restricted content

### Commons (同文)

Location: Taiwan – launched End of October 2021  
 Founder: Simon Shen, International Relations scholar.  
 Content: Original – Stories about Hongkongers overseas, After closure of Stand News and Citizen News more stories about Hong Kong. Run by part-time journalists in Hong Kong and overseas correspondents.  
 Reach: Facebook over 30k followers, Instagram over 10k followers.  
 Business model: Supporter Donations

### MM-Mill Milk

Location: Hong Kong – founded November 2021  
 Founder: Former reporters of the supplement section of *Apple Daily*  
 Content: Original – Lifestyle, culture  
 Reach: YouTube 400k Subscribers with over 70 million views, Facebook 30k followers, Instagram 95000 followers.  
 Business model: YouTube advertising, free access, advertisement, revenue split.

### Hong Kong Matters (香港新聞連線)

Location: Hong Kong – Founded December 2021  
 Founder: Stephen Shiu Yeuk-Yuen  
 Content: Not Original – Comprehensive news oriented towards maintaining Hong Kong Culture  
 Reach: 25k followers, website  
 Business model: no information available.

## 2022

### The Chaser (追·新聞)

Location: UK – founded in March 2022  
 Founder: reporters from several news organisations  
 Content: Daily news in HK, China and Taiwan, plus international news; information about living overseas; news commentary  
 Reach: FB; under 50k followers, Instagram over 9k followers, YouTube under 15k subscribers, Patreon  
 Business model: Supporter donations, free access content.

### ReNews

Location: Hong Kong – Founded in April 2022  
 Founder: Former Stand News reporter Lam Yin-Pong  
 Content: Mainly political news analysis and profile interviews  
 Reach: FB, 40,000 followers; IG 28,000 followers; Patreon subscription over 280  
 Business model: Patreon subscription revenue

### Kwun Media (觀新聞)

Location: Hong Kong – founded May 26 2022  
 Founder: Anecdotaly – a senior journalist in a pro-democracy news organisation  
 Content: Original – Lifestyle information and consumption guide, especially in the Greater Bay Area  
 Reach: Biweekly hard copy. FB & IG, 300 followers. YT, 180 followers. Presence on Weixin, Weibo, Douyin, Bilibili and own website.  
 Business model: no information available

### Green Bean Media (綠豆)

Location: Hong Kong – founded June 11 2021  
 Click through for more detail  
 Founder: Former video producers and reporters of RTHK programme Hong Kong Connection,  
 Content: Original – Documentaries on stories of overseas Hongkongers  
 Reach: YT, 56k subscribers; FB 31k followers; IG 13k followers; Web presence.  
 Business model:

### Miu (林妙茵)

Location: Hong Kong – founded in February 2021  
 Founder: Former assistant Location: ecutive editor of News Lancet, Cable News  
 Content: Not original, Self-Media – News Commentary  
 Reach: FB, 21k followers  
 Business model: Not for profit ‘self media’.

### Reporter Alvin Chan (記者 陳珏明)

Location: Hong Kong – founded in July 2021  
 Founder: Former special topic chief reporter of Apple Daily  
 Content: Original, Self-Media – Initially mainly court and political news, also special topics, and memories about *Apple Daily* news operations  
 Reach: FB, 30k followers; Liker.land  
 Business model: LUnknown other than Liker.Land subscription revenue

### VforVengeance (記者 梁嘉麗)

Location: Hong Kong – founded in July 2021  
 Click through for more detail  
 Founder: Former special topic chief reporter of Apple Daily, Leung Ka-lai  
 Content: Original, Self-Media – Profile interviews, features  
 Reach: FB, 34k followers; IF, under 4k followers; Patreon  
 Business model: Unknown other than Patreon subscription revenue

### CWR NewsPost UK (各位我係王俊彦)

Founder: Former TVB news reader Chris Wong  
 Content: Some original content, Self-Media – Cantonese newscasts of aggregated Hong Kong and world news, vlogs of snippets of UK life, occasional news reports about Hongkongers in UK  
 Reach: YT, under 100K subscribers; IG, 16k followers; FB, 14k followers; Patreon  
 Business model: Patreon subscription revenue

## National security trumps free speech in courts

Days after he was elected Hong Kong’s leader, John Lee Ka-chiu assured reporters that in his city there was no such thing as a speech crime. “People are brought to court because it is [suspected] that their actions are contravening the law. It is their action,” Lee said.

But since China began tightening its grip on Hong Kong, local courts have criminalised a wide range of public expression. Authorities have used offences under the National Security Law, which was imposed by Beijing in late June 2020, as well as the colonial-era offence of sedition, to target dissent. Despite Lee’s claims, the mere expression of political opinion – without the use or threat of force – can land a person in jail in Hong Kong today.

### Deviation from international standards

When balancing national security and free expression, countries around the world can refer to the 1995 *Johannesburg Principles on National Security, Freedom of Expression and Access to Information*, which were compiled by experts in international law, national security and human rights. The Johannesburg Principles balance national security and Article 19 of the International Covenant on Civil and Political Rights, which is applicable to Hong Kong and has been enshrined in local law.

As a result, the principles have been cited by Hong Kong courts, though they are not binding. When Hong Kong first

contemplated passing national security legislation in 2003, the Security Bureau said the Johannesburg Principles were a “useful benchmark against which the proposals may be judged”.

Yet the National Security Law explicitly deviates from the principles. More worrisome, the application of local Hong Kong law that is regarded as relevant to national security also deviates from the principles.

The Johannesburg Principles begin by stating that countries may not restrict free expression on the grounds of national security “unless the government can demonstrate that the restriction is prescribed by law and is necessary in a democratic society to protect a legitimate national security interest”. The government has the burden of justifying why such restrictions are valid. The principles also propose a three-step test for what sort of expression may be punished as a threat to national security, namely: 1) the expression

**Authorities have used offences under the National Security Law, which was imposed by Beijing in late June 2020, as well as the colonial-era offence of sedition, to target dissent.**



Chinese President Xi Jinping and Hong Kong Chief Executive John Lee stand together at a swearing-in ceremony on the 25th anniversary of Hong Kong’s handover from the United Kingdom to the PRC. Press freedom and independent media in Hong Kong have faced increasing challenges since the passing of authority. CREDIT: SELIM CHAYTI / POOL / AFP

is intended to incite imminent violence; 2) it is likely to incite such violence; and 3) there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence.

However, violence is not a necessary element of the crimes established by the National Security Law in Hong Kong. There are four categories of crime: subversion, terrorism, foreign collusion and secession. Among these, the subversion offence states that threat of force is needed for a conviction. No mention of force is made in the terrorism and foreign collusion offences. The most problematic offence is that of secession.

In prohibiting secession – that is, altering Hong Kong’s legal status or separating the city from China – the National Security Law penalises anyone who “organises, plans, commits or participates... *whether or not by force or threat of force*” (emphasis added). It goes on to criminalise anyone who “incites, assists in, abets or provides pecuniary or other financial assistance or property” for secession. These provisions are in clear conflict with the free speech protections in both the Johannesburg Principles and the International Covenant on Civil and Political Rights.

Those who champion the National Security Law argue that it still includes human rights safeguards. Article 4 states that “human rights shall be respected and protected” and that rights under the International Covenant on Civil and Political Rights remain valid and applicable. However, the National Security Law enjoys supreme legal status in Hong

**In prohibiting secession – that is, altering Hong Kong’s legal status or separating the city from China – the National Security Law penalises anyone who “organises, plans, commits or participates... *whether or not by force or threat of force*”**

Kong on a par with the Basic Law, the city’s constitutional text, meaning that National Security Law provisions are immune from judicial review. Hence, local courts lack authority to fix the law even in cases where it is found to excessively limit free speech.

#### **National Security Law threshold applied in sedition**

Hong Kong authorities have also come to rely on the “revived” offence of sedition under the Crimes Ordinance, which was enacted during British colonial rule and had not been used for more than 50 years. The law targets “seditious intention” manifested in various ways, including by uttering words and distributing publications. In addition, the law catches those who “attempt” and “make preparations for” these acts.



Radio presenter and People’s Power vice chair Tam Tak-Chi, also known as ‘Fast Beat’, speaks to the media outside of the US Consulate General in Hong Kong in 2020. In March 2022, Tam was sentenced to 21 months imprisonment in Hong Kong’s first sedition trial since the 1997 handover (CREDIT: MARC FERNANDEZ / NURPHOTO / NURPHOTO VIA AFP)

“Seditious intention” is defined widely in a string of sub-clauses, which include an intention to “bring into hatred or contempt or to excite disaffection against” the government, to “raise discontent or disaffection” among the public, and to “promote feelings of ill-will and enmity between different classes of the population”.

In a district court judgement delivered in September 2022, Judge Kwok Wai-kin concluded that the offence of secession in the National Security Law can be committed whether or not force or threat of force is used. Further, he said the offence of sedition, which usually occurs as a prelude to secession, does not require the use or threat of force.

Judge Kwok substantiated his argument by stating that the world has changed and threat of words might be more damaging than violence. This interpretation can easily make free speech a crime:

Violence is not the only means to bring down a government or cripple its running. Spreading rumour, hatred and disinformation is clearly a readily available and may even be a more effective weapon without the need to incite people to violence. Since the common law is always developing, there is no reason now to stick to the Common Law Intention formulated decades ago to make incitement to violence a prerequisite component of a seditious intention.

Such interpretation towards seditious intent may weaken people’s trust in the statutory defences, which waive criminal liability for people who, for example, point out problems with the government “with a view to the remedying of such errors and defects”.

Hong Kong authorities have used both National Security Law offences and sedition to target dissent, and sometimes deploy both against the same defendant. It is important, however, to note that the two have separate origins and contrasting features. The National Security Law is considered to be more specialised, comes with heavier penalties with life imprisonment as the maximum penalty, and is potentially trickier for the prosecution to prove in court. Sedition is seen as having a broader scope and a lower threshold for laying charges, but comes with comparatively lighter punishments. People convicted of sedition for the first time can be jailed for up to two years and fined HK\$5,000.

#### **Slogans criminalised by National Security Law**

Even though many national security cases have yet to complete their legal process, the handful of concluded trials have already had a profound effect on Hong Kong’s political climate and narrowed the room for free speech.

In *HKSAR v Tong Ying Kit*, Hong Kong’s first-ever national security trial, former restaurant worker Tong was accused of driving a motorcycle with a flag bearing the protest slogan “光復香港，時代革命” (“Liberate Hong Kong, revolution of our times”), which crashed into police officers. He was convicted of inciting secession and terrorism, and in July 2021 was sentenced to nine years in jail.

The three judges, who were among a pool of jurists chosen by Hong Kong’s leader to hear national security cases, approached the issue of secession in two stages. First, they had to determine whether the slogan was capable of bearing a secessionist meaning. If the answer was yes, they next had to decide whether Tong intended to use that slogan to convey a secessionist meaning.

The “Liberate Hong Kong” slogan was created by pro-independence activist Edward Leung Tin-kei for his 2016 Legislative Council election campaign, and became widely

**Even though many national security cases have yet to complete their legal process, the handful of concluded trials have already had a profound effect on Hong Kong’s political climate and narrowed the room for free speech.**

adopted in the 2019 citywide democracy protest. On the first point, the government’s position was that the “Liberate Hong Kong” slogan connoted Hong Kong independence, separatism, altering the legal status of Hong Kong or subverting state power. After hearing expert evidence from three academics, the judges sided with the government.

The court then analysed Tong’s behaviour, saying that he planned to “attract public attention” and leave a strong impression. As Tong did not testify, the judges inferred his motive from factors such as the prominent placement of the flag, his driving route, chat logs between him and a friend, and his decision to ride past multiple police checkpoints. The judges concluded:

*We are sure that, as evidenced by the convoluted route he chose, the defendant was out there deliberately displaying the flag. We are also sure that the defendant fully understood the slogan to bear the meaning of Hong Kong Independence and by displaying, in the manner he did, the flag bearing the slogan, the defendant intended to convey the secessionist meaning of the slogan as understood by him to others and he intended to incite others to commit acts separating [Hong Kong] from [China].*

Legal scholars Thomas Kellogg and Eric Lai have criticised the court’s reasoning as “remarkably weak” in assessing Tong’s intent. “The court was unable to demonstrate any particular specific effort by Tong to spur others to *any* specific action, much less acts of secessionary violence,” they wrote in a research paper. “Tong was engaged in provocative political sloganeering, which, by itself, should not be criminally actionable.”

Following Tong’s case, the “Liberate Hong Kong” slogan has all but vanished from Hong Kong’s public discourse both online and offline. The case also set a precedent for local courts to extend the slogan’s interpretation to other cases, such as Hong Kong’s second national security trial, *HKSAR v Ma Chun Man*.

Former food-delivery worker Ma Chun Man was nicknamed “Captain America 2.0” as he carried a replica of the comic book character’s shield at protest rallies. Prosecutors said that, on 20 separate occasions, Ma incited secession by chanting slogans, displaying placards and taking part in interviews with the media at public rallies. Ma was accused of using slogans such as “Liberate Hong Kong, revolution of our times”, “Hong Kong independence, the only way out”, and other slogans promoting nation-building and armed resistance. His lawyers argued that Ma had no public following and his antics drew little attention.

Neither public following nor the possible impact the slogans concerned the judges. They ruled that Ma “seemed to believe he had a political mission” to promote Hong Kong independence, adding that his criminal intent was “clear for all to see”. One judge wrote:

The defendant believed his own words, and sincerely hoped that Hong Kongers should not be hypocritical or selfish, and

**The activist was arrested hours before a planned protest against Beijing's Winter Olympics, having prepared a prop coffin and cloth strips with the words "Down with the Chinese Communist Party, end one-party rule".**

instead work together to promote independence and foster the next revolution, in order to build a Hong Kong republic and to seize sovereignty from China. The court believes that such a clear political stance leads to a belief beyond doubt that the defendant had the intent to incite secession and the requisite criminal act. In 20 incidents within three months of 2020, the defendant repeatedly and unreservedly incited and promoted matters banned under NSL Article 20 (1) and (2), namely separating Hong Kong from China and unlawfully altering Hong Kong's legal status.

Ma was sentenced to five years and nine months in prison, though the penalty was later reduced to five years. His case was legally significant as – unlike Tong's case – it involved no element of violence. The judgement in Ma's case reinforced the public perception that pro-independence slogans, which were part of the life of Hong Kong people not long before the judgement was made, were taboo per se and could not be expressed in public. As legal scholars Thomas Kellogg and Eric Lai pointed out in another article: "(Ma's) imprisonment will serve as a signal of free speech's end in Hong Kong."

#### Non-violent protesters deemed seditious

Hong Kong courts have demonstrated their willingness to criminalise non-violent protest of various kinds. As well as in trials under the National Security Law, this can be seen in the recent spate of sedition trials, in which the authorities take advantage of the colonial-era law's wider ambit and lower the threshold for conviction. Since the national security police unit was established, one out of five arrests by its officers was carried out on the grounds of sedition, according to a tally by the *South China Morning Post*.

*HKSAR v Tam Tak Chi* was the first sedition case prosecuted after Hong Kong was handed over to Beijing in 1997. It is also the first such prosecution in more than half a century under a law that had not been used since 1967. In March 2022, Tam Tak-Chi, a long-time activist and radio host known as "Fast Beat", was sentenced to 21 months in jail on seven counts of sedition, among other convictions.

For decades, it has been common for Hong Kong political figures to campaign on the streets, setting up booths and handing out flyers, and Tam was no exception. Prosecutors accused him of chanting provocative phrases, including the "Liberate Hong Kong" slogan as well as insults against the police and the Chinese Communist Party.

In his judgement District Court Judge Stanley Chan Kwong-chi upheld the constitutionality of the sedition offence and said Tam was a man of "political ambition and calculation". Analysing words uttered by Tam on two occasions in July 2020, the judge said:

[Tam's] motives are clear for all to see. The defendant clearly had a seditious intent, and did his utmost to inflame others' disdain and resistance toward the police, the government and the National Security Law. [...] This is a serious betrayal of the so-called freedom of speech that the Defendant purported to champion.

The judge further implied that Tam's criticism of the Hong Kong government was an attack on the central government.

Chapter Two of the Basic Law states [...] the Hong Kong Special Administrative Region comes directly under the Central People's Government. The HKSAR government is formed by the Central People's Government in accordance with China's constitution and the Basic Law. [...] Even disregarding the words related to the Chinese Communist Party, this court believes that the Defendant still has a seditious intent to attack the HKSAR government. Because the HKSAR government is authorised by the central authorities, this is also an attack on them.

In July 2022, in the case of *HKSAR v Koo Sze Yiu*, a Hong Kong court jailed a veteran activist with terminal cancer for attempted sedition. The activist was arrested hours before a planned protest against Beijing's Winter Olympics, having prepared a prop coffin and cloth strips with the words "Down with the Chinese Communist Party, end one-party rule". Koo was planning to take the protest props to Beijing's top office in Hong Kong, a location where he had held many rallies previously. The magistrate sentenced Koo to nine months in jail, saying:

Without doubt, the ultimate aim of [Koo's] words was to change or even overthrow the arrangement in China's constitution. This can be seen clearly from the words "Down with" and "end". He was not just criticising or expressing dissatisfaction. [...] Looking back on the past few years, there were a series of large-scale incidents of collective lawbreaking, and there were feelings of discontent among the public. During those events, many people directed blame toward the Chinese Communist Party, and despite the movement ending, many have not yet recovered emotionally. Putting out such messages in this environment will once again provoke feelings of discontent.

#### Opposing government policy ends in jail

Ordinary Hong Kong residents expressing their political views have also been prosecuted under the sedition law. In *HKSAR v Cho Suet-sum Chloe and Wong Chun-wai*, the two defendants were a 45-year-old woman and a 17-year-old boy. They were arrested after handing out leaflets with phrases such as "Hong Kong independence", "Resist communist ideology" and "Hong Kongers, build an army and establish a state".

Prosecutors only went as far as to establish that the duo designed the leaflets and distributed them in and around a shopping mall. Nevertheless, the judge concluded that Cho had an intention to incite others to use violence:

[The defendants] must be well aware that the Central People's Government and the HKSAR Government would not allow the independence of Hong Kong to occur, and they therefore incited Hong Kong people to build an army so that their goal of independence could be attained through the use of violence. If independence of Hong Kong were to be achieved by the use of violence, especially through fighting between armed forces, it can be predicted with absolute certainty that bloodshed would result. [...] [The defendants] envisaged bloodshed to occur but it was unavoidable for the sake of achieving independence.



Clarisse Yeung speaks to the media outside West Kowloon court in Hong Kong on March 5 following the mass bail hearing of 47 pro-democracy activists. Yeung was one of 13 released on bail for the charge of conspiring to 'commit subversion' and is subject to stringent bail conditions. CREDIT: ISAAC LAWRENCE / AFP

**The judge added that handing out the leaflets was "clearly an act in defiance" of the National Security Law . . . and calling people of Hong Kong to build an army to achieve independence was clearly an incitement to people to take the law into their own hands"**

The judge added that handing out the leaflets was "clearly an act in defiance" of the National Security Law:

Building an army to achieve independence of Hong Kong was clearly a measure directed at the NSL, and calling people of Hong Kong to build an army to achieve independence was clearly an incitement to people to take the law into their own hands, which would involve nothing short of unlawful actual violence.

In January 2022, Cho was sentenced to jail for 13-and-a-half months, while Wong was sent to a rehabilitation centre.

Some of the sedition cases cited above involved people voicing challenges against the foundation of Hong Kong's political order: disputing Hong Kong's status as a Chinese special administrative region, the supremacy of Chinese Communist Party leadership and so on. But it is also possible to be convicted for sedition – which in the eyes of the court is a de facto national security offence – merely by opposing government policy and urging non-compliance with local laws.

In June 2022, *Lam Yuen-yi and Hau Wing-yan*, who together operated a beverage store, pleaded guilty to "doing acts with seditious intention" and were sentenced to six and seven months in jail respectively. Prosecutors said they posted items on Facebook and Instagram urging others not to get vaccinated against the coronavirus, to falsely declare side effects of vaccination, not to install the government's contact-tracing mobile app, not to get tested for the virus and to spread the virus to political opponents.

In sentencing, the judge said that the political turmoil in recent years had caused a "lack of mutual trust among individuals and groups, which created polarisation, enmity and hatred". The public was fearful of the coronavirus and many had doubts about the efficacy of the vaccine. The overall circumstances made it a "golden opportunity" for those looking to spread seditious messages and they had to be deterred, the judge said.

### Presumption against bail

Under the National Security Law, Hong Kong courts have found an effective tool to control what a defendant says before trial has even begun – bail conditions. The case of the democrats’ “informal primary” illustrates this point.

On January 6, 2021, Hong Kong was shocked by the mass arrest of 53 democracy activists under the National Security Law. Prosecutors later charged 47 of them with conspiracy to commit subversion, accusing them of being involved in an unofficial primary within their own camp to find candidates for the Legislative Council election slated for 2020. Eighteen months after their initial arrest, the case is still at the pre-trial stage, with 34 of the defendants remanded in custody.

Before the National Security Law was enacted, Hong Kong courts, which follow the common law tradition, had long upheld the presumption of bail. It means that when a prosecutor wishes to keep a suspect in detention before trial, the burden is on the government to prove why this is necessary.

The opposite is true in national security cases, in which the traditional burden of proof is reversed. The National Security Law states explicitly that a defendant cannot get bail unless they can convince the judge they will not continue to endanger national security. This was decided by the Court of Final Appeal in *HKSAR v Lai Chee Ying* in February 2021. *Apple Daily* founder Jimmy Lai was one of the first people to be charged under the National Security Law, and while his substantive case has yet to go to trial, he has contested the issue of his pre-trial detention, resulting in an appeal that went – unsuccessfully – all the way to Hong Kong’s highest court.

In *HKSAR v Ng Hau Yi Sidney*, decided in December 2021, the Court of Final Appeal rejected the application for leave to appeal and went one step further to raise the threshold for bail in sedition cases as well. A majority of defendants in national security cases – regardless of whether they are charged with a National Security Law offence or with sedition – were held in pre-trial detention, sometimes for months on end.

When deciding the issue of bail, judges often put weight on the defendants’ remarks during their previous political activities, such as election forums and press conferences, as well as attendance at street booths. For example, activist Frankie Fung Tat-chun was denied bail in November 2021 because he allegedly said, at an election forum, that the Chinese Communist Party was the “common enemy” of the pro-democracy camp and also called for international sanctions against China. The judge ruled in *HKSAR v Fung Tat Chun Frankie* that his comments went beyond “election rhetoric” and demonstrated the strength of his political convictions, which meant he would pose a national security risk if released on bail.

The 13 out of the 47 defendants who were granted bail must abide by stringent conditions that, in many cases, amounted to a de facto gag order. Emilia Wong, the girlfriend of one of the defendants, once described it as “social death”. She suggested that despite regaining their physical freedom, those who were let out on bail were excluded from the public sphere. For example, the bail conditions in *HKSAR v Wong Ji Yuet* issued in December 2021 included a) refraining from directly or indirectly publishing, sharing, or forwarding any commentary

**The number of people prosecuted in this two-year period is disturbing. Worse still, most have been kept in custody for up to a year-and-a-half before they come to trial.**

that may endanger national security, b) steering clear of elections of any kind, and c) avoiding contact with any foreign officials, lawmakers and their staff.

The impact of National Security Law bail conditions on free expression is perhaps best shown in *HKSAR v Chow Ka Shing*, the case of one of the 47 democrats charged in the subversion case. Chow had his bail revoked in January 2022 after he was found to have made comments that endangered national security, contrary to his bail conditions. While there is no official confirmation of what landed him in trouble, media reports say it was probably his political commentary on Facebook, which took aim at high-ranking government officials and was often sarcastic in tone.

### The list of security-related cases grows

According to publicly available information, 117 people and five companies were facing national-security-related charges as of mid-September 2022. Among them, 10 cases involving 84 people and four companies have been prosecuted under the National Security Law. Another 17 cases involving 33 people and four companies face sedition charges. They include two cases involving both National Security Law offences and sedition.

The number of people prosecuted in this two-year period is disturbing. Worse still, most have been kept in custody for up to a year-and-a-half before they come to trial. Chris Ng, a defence counsel, worried that the lengthy custody may wear down a defendant’s will to mount a defence. In fact, 29 out of 47 defendants in the democrats’ “informal primary” case are believed to be likely to plead guilty.

Ng said that some defendants in other cases may plead guilty simply because the time they have been detained is almost the maximum penalty under the charges they face. This is more likely in sedition cases, which carry a maximum jail term of two years. Despite the large number of cases, judicial proceedings have been completed in only seven cases involving 14 defendants. This means that just 13 percent of defendants have received a judicial ruling.

The rulings related to the National Security Law so far have come largely from middle-ranking courts. Defendants may launch appeals to argue their cases in higher courts, but given the judgements handed down so far by judges handpicked by the chief executive and the number of defendants who intend to plead guilty, it is not at all certain that those facing prosecution can have much faith in the appeal process. ■

## The death of public broadcasting



Radio Television Hong Kong (RTHK) producer Bao Choy Yuk-ling is surrounded by members of the press at the West Kowloon Courts building in Hong Kong on April 22, 2021, after she was found guilty of improperly searching a public vehicle licence database to help track down the perpetrators of an attack on democracy supporters by government loyalists. CREDIT: ANTHONY WALLACE / AFP

Radio Television Hong Kong (RTHK) claims to be Hong Kong’s public service broadcaster, able to serve the public with the support of public funding and to operate with protection against commercial and political interference. If this was arguably so in the past, there remains little room for RTHK to claim that it retains this status after the fundamental changes made by Patrick Li Pak-chuen, who took up the post of Director of Broadcasting on March 1, 2021.

The imposition of Li, a civil servant with no media background, signalled the transformation of RTHK into a subservient government department. It is astonishing that it took just over a year to transform the public broadcaster, which previously enjoyed a large measure of editorial independence, into something similar to a department for propaganda.

Li’s promotion in July 2022, to Permanent Secretary of the Security Bureau, a D8 level post, means he jumped three grades in the salary system in 16 months – arguably a reward for what he achieved at RTHK. Ariel, a political gossip columnist in the pro-establishment online media outlet *Bastille Post*, quoted a top political insider as saying the promotion “was unsurprising”.

Ariel said Li had solved the “accumulated problems” of RTHK with bold and resolute measures. The term

**It is astonishing that it took just over a year to transform the public broadcaster, which previously enjoyed a large measure of editorial independence, into something similar to a department for propaganda.**

“accumulated problems” is used by the pro-establishment camp to criticise RTHK for being too free from government control or requests. The article quoted legislators praising the transformation of RTHK, saying they are “more comfortable” watching RTHK programs now.

However, the price for making the pro-establishment bloc feel comfortable and the promotion of the outgoing director of broadcasting is the death of public service broadcasting in Hong Kong. Article 19, a freedom-of-expression advocacy group based in London, said in 2005 that public service broadcasters contribute substantially “to the public’s right to a diversity of information and viewpoints, and the free flow of information and ideas”. The suffocation of RTHK’s





A Hong Kong and China flag flies on top of the RTHK Television House in Hong Kong on April 20, 2021. CREDIT: VERNON YUEN / NURPHOTO VIA AFP

development therefore narrowed the diversified environment that Hong Kong once enjoyed.

### From housekeeping to house cleaning

The first and the oldest public service broadcaster in Hong Kong, RTHK is a quasi-public broadcasting organisation that has served Hong Kong residents for nearly a century. Since its inception in British colonial days, it has been in the embarrassing position of having a hybrid structure somewhere between a true public broadcaster and a government department. The colonial government of Hong Kong tried several times to turn it into a truly independent media organisation. These efforts failed for various economic reasons and due to political pressure, including the vehement opposition of the Chinese government.

Without a formal and legal status, RTHK tried to reinforce its role as a public broadcaster by sending senior staff for training at the BBC, adopting the BBC's professional practices and codes, striving to safeguard editorial autonomy from the colonial government and joining international public broadcasting organisations from the mid-1980s onward.

RTHK was therefore regarded as a public broadcaster enjoying a high level of credibility and gaining professional recognition in the region. Traditionally, the Hong Kong government and RTHK maintained a sometimes uneasy relationship of trust which was later formalised through a mutually agreed RTHK Charter in 2010.

This charter specifies RTHK's relationship with the Commerce and Economic Development Bureau (CEDB),

**RTHK management did make slight concessions under government pressure and created a precedent by following the action of the Chinese government, which suspended the broadcast of BBC World News . . .**

RTHK's Board of Advisors and the Communications Authority. The CEDB usually played the role of a housekeeper for RTHK, meaning that apart from resolving critical budget issues and structural and personnel arrangements, the bureau did not involve itself in RTHK's day-to-day administration.

However, the pro-Beijing camp frequently complained that RTHK was a hotbed for anti-government and anti-China voices and that it failed to be a dutiful government department. The broadcaster angered the Hong Kong government, police and the city's pro-Beijing establishment with its live coverage of the anti-government protests that rocked the city in 2019.

### Threats turn to outright attacks

In early 2020, RTHK's controversial satirical program *Headliner* became the centre of a political storm. Executives suspended the show after the Hong Kong police complained about

an episode mocking the force. A few months later, police arrested the freelance producer of an RTHK TV investigative documentary about the authorities' delayed response to a mob attack on protesters on July 21, 2019. The government later stepped up its efforts to revamp RTHK.

In February 2021, officials released a report on the governance and management of RTHK which denounced the broadcaster's "seriously inadequate" editorial practices. The CEDB also announced the early termination of the contract of the then director, Leung Ka-wing. The annual budget of RTHK for 2021-22 was trimmed by 4.6 per cent – a move widely seen as punishment. The provision for public affairs and TV services was cut even more, by 9.2 per cent.

The then-RTHK management did make slight concessions under government pressure and created a precedent by following the action of the Chinese government, which suspended the broadcast of BBC World News in the country in mid-February 2021. China's National Radio and Television Administration said that BBC World News reports about China were found to "seriously violate" broadcast guidelines, including "the requirement that news should be truthful and fair" and not "harm China's national interests".

On the same day, RTHK said it would stop relaying BBC World Service programming. It had broadcast the service for more than four decades. The move sparked concern among foreign governments and journalist organisations. Keith Richburg, the head of the University of Hong Kong's Journalism and Media Studies Centre, described RTHK's decision as "surprising" because it did not look like the management would make such a decision unless "some direction" was given. He further said it was a "very worrying sign," given that Hong Kong is "supposedly still autonomous."

However, this was not enough to satisfy those who wanted to transform RTHK. Hong Kong Chief Executive Carrie Lam told the Legislative Council that RTHK would have to undergo an immediate overhaul after receiving seven proven complaints in two years. The broadcaster has become a major target since Beijing imposed the National Security Law on Hong Kong on June 30, 2020. RTHK's previous links with democratic politicians, Hong Kong civil society and international media organisations were targeted by the government. These groups and individuals were accused of causing social unrest and instability.

### RTHK's decolonisation and realignment

The project to "rectify" RTHK formally began in March 2021 when the Hong Kong government appointed Patrick Li, a long-time administrative officer, to take up the position of Director of Broadcasting to replace Leung Ka-wing. This role was usually filled by a veteran staff member from within RTHK or an executive from another Hong Kong media organisation. The appointment indicated the government had deliberately abandoned its non-interventionist approach, not only explicitly strengthening RTHK's ties with the bureaucracy but also reasserting direct control in day-to-day management.

The new director's comprehensive control over RTHK was expressed at multiple levels, including the appointment of senior executives, changes of editorial policies and refocusing programme directions.

After Li assumed the role, more pro-government officers were recruited to serve as senior executives in RTHK. In mid-April 2021, several senior staff who came from different government departments were appointed. They included a former director of administration, Kitty Choi Kit-yu, as an

**A nine-member editorial committee headed by the Director of Broadcasting was empowered to vet all program content and to issue top-down directives to journalists and directors.**

advisor to the director of broadcasting; a former assistant secretary of RTHK's policy bureau, Freda Cheung Yun-chee, who became a senior manager; and two former staff members from the Communication Authority – Chan Chi-fai and Wong Wai-yin – to provide special support to RTHK management. In September 2021, Raymond Sy Kim-cheung, a former deputy director in the Marine Department, was redeployed to RTHK to take up the vacant post of Deputy Director of Broadcasting. He became Acting Director on Li's departure to his new position in July 2022.

The increased presence of career bureaucrats as senior executives in RTHK not only blocked the career prospects of current professional staff, but also aligned RTHK's management style and policy direction with those of other government departments.

The period also witnessed an exodus of experienced professional staff members. According to news reports, at least 18 staff either quit or were fired within three months of Li's appointment. Current affairs program staff were the hardest hit. Among those who resigned were Public and Current Affairs section head, Doris Wong, *Hong Kong Stories* executive producer Fong Hiu-shan, *Headliner* executive producer Liu Wai-ling, senior executive producer Sit Yau-tak, assistant director Brian Chow from the radio division and award-winning reporter, Yvonne Tong. Another journalist, Nabela Qoser, known for posing hard-hitting questions to government officials, did not have her contract renewed. Gladys Chiu Sin-yan, head of the RTHK Programme Staff Union, cited increasing political demands and systemic injustice as the reason for her resignation in late April 2021.

Outspoken and experienced journalists and presenters were also affected. Steve Vines, a former president of the Foreign Correspondents' Club of Hong Kong, Allan Au from Radio 1, and Tsang Chi-ho from Radio 2 either were sacked, resigned or terminated their contracts due to the increasingly tough working environment. RTHK responded that the changes were the result of a "regular review" of programs, manpower and broadcasting arrangements. Most of those leaving cited political reasons. Before his departure, Steve Vines said it seemed that for somebody who was critical, the time to remain at RTHK had ended. The new-look RTHK was apparently no longer a place to embrace diverse opinions.

### Top-down management style employed

The chain of command within RTHK's organisational structure also underwent far-reaching changes. In the past, the Director of Broadcasting, as editor-in-chief, had seldom meddled in programming. Executive producers of different units or subsections held delegated powers and autonomy to vet programme ideas and content.

However, starting in March 2021, a nine-member editorial committee headed by the Director of Broadcasting was empowered to vet all program content and to issue top-down directives to journalists and directors regarding details of

productions. Producers were encouraged to submit program plans “to the board for review at the early stages of planning, enabling that committee to be more proactive in guiding the production process.” This “upward referral” system allowed RTHK management to prevent controversial issues from seeing the light of day.

In late September 2021, a 90-page document was formally issued to RTHK staff setting out editorial responsibilities, policies and procedures. The document, based on a previous version but with added emphasis on national security concerns, stressed that RTHK programs must not provoke or deepen hatred, discrimination or hostility towards the central or Hong Kong governments. It also stated that “under no circumstances” should programs “provide a platform to encourage, incite, promote, glorify, endorse or sympathise with any act or activity endangering national security or otherwise contain any contents which are contrary to the interests of national security.”

**Nineteen members of the RTHK Programme Advisory Panel issued a statement in March 2021 condemning the director of broadcasting’s actions as erasing RTHK content in disregard of the promise of the broadcaster’s editorial independence and press freedom.**

The new guidelines also barred journalists from referring to democratic Taiwan as a country or a country-like entity, in keeping with Beijing’s territorial claim on the island. They are also instructed to “be cautious in contacts” with foreign governments and “political organisations.” RTHK staff who do not comply risk disciplinary action.

The International Federation of Journalists’ affiliate the Hong Kong Journalists Association (HKJA) expressed concern over the ambiguity of some requirements. It also said the directives’ style may not be good for the production and quality of programs. The HKJA urged management not to go down an autocratic road and instead to communicate with the RTHK staff union to address its concerns.

#### **A new identity as government mouthpiece**

By the end of 2021, the overhaul of RTHK was almost complete. The government regarded this process as a house-cleaning exercise. With a thorough rectification of the power structure, management style and production guidelines, RTHK headed towards the new policy goal of becoming a government mouthpiece.

Its focus of service would be directed towards the governments of both mainland China and Hong Kong governments rather than the local audience. For example, a series of 10 five-minute programmes was created on December 4, 2021 to promote China’s constitutional law. A few months earlier, RTHK’s TV Channel 31 was asked to join China’s state broadcaster in showing programs praising the ruling Communist Party and promoting patriotism. To celebrate the party’s centenary, RTHK had to show related programs produced by China’s Central Television, including an awards ceremony for outstanding party members and a series about

the battles in 1948-1949 that helped the Chinese Communist Party to win power.

The promotion of individuals became the theme of some programs. Hong Kong Chief Executive Carrie Lam was given her own RTHK talk show in April 2021. The show aired four times a day over 20 days, and allowed her to freely promote Beijing’s new election rules and her public policies without exposing them to challenges and questions from independent journalists. The 40-episode show was coordinated by the Information Services Department, which acts as the link between the Hong Kong government and the media. The chief executive was accused of using these shows to pave her way for re-election, something that in the end did not happen. The Hong Kong government’s interference in programming decisions facilitated the government’s self-promotion rather than letting RTHK fulfil a check-and-balance watchdog function.

The Chinese music charts of RTHK’s radio service also came into question. In August 2021, the theme song of a mainland-produced patriotic drama series, *Glory of Youth*, which aired on RTHK’s Channel 31 with little media attention, was placed at the top of the billboard. It had placed 16<sup>th</sup> one week before. Its surge to the top of the charts prompted criticism, with newspapers quoting various netizens condemning it as a rigged match or the suicide of the chart.

#### **Censorship and program axings**

The reformed RTHK also imposed a new censorship system which ruthlessly removed all politically sensitive and controversial programs, presenters and content, regardless of whether these topics and content were popular or well received. Under this system, RTHK’s program quality will no longer be based on professional judgement and journalistic standards but mainly on political correctness and faithfulness to the government line.

Censorship has appeared in almost the entire production process, including the axing of a complete series, removal or rescheduling of specific episodes even when production had already been completed, banning creative ideas, and even stopping interviews with some studio guests.

As the editor-in-chief, the Director of Broadcasting can determine which programs are broadcast. Within a month of his appointment, six current affairs programs were suspended. Li exercised direct censorship in a tough way. A weekly roundtable called *Midnight Talk Show*, in which social science academics aired their views, gave way to mainland Chinese dramas.

*Letter to Hong Kong*, a Sunday morning current affairs radio show that invited politicians and public figures from a range of backgrounds to present their views on various issues, ended abruptly in July 2021 after being aired for almost 30 years. RTHK replaced the show with *Hashtag Hong Kong*, a new program which plays music and invites NGOs and non-profit groups to discuss livelihood issues.

These moves coincide with increasing pressure on RTHK from the government and pro-Beijing figures in Hong Kong over its perceived bias in favour of pro-democracy politicians. A letter written by Tuen Mun district councillor Michael Mo Kwan-tai, thanking detainees in prison for their sacrifice and wishing them a happy Easter, was supposed to air in April 2021. It was withdrawn three days before airing. A letter by Eugene Chan Kin-keung, the former chairman of the RTHK Board of Advisors, was broadcast instead. RTHK said this was an ordinary programming adjustment.



A Barricade with an RTHK logo at RTHK Television House in Hong Kong, China on April 20, 2021. CREDIT: VERNON YUEN / NURPHOTO VIA AFP

**Under this system, RTHK’s program quality will no longer be based on professional judgement and journalistic standards but mainly on political correctness and faithfulness to the government line.**

The dropping of politically sensitive programs was widely criticised. Nineteen members of the RTHK Programme Advisory Panel issued a statement in March 2021 condemning the director of broadcasting’s actions as erasing RTHK content in disregard of the promise of the broadcaster’s editorial independence and press freedom. It turned RTHK into a propaganda machine rather than encouraging civic society platforms. The signatories expressed outrage, saying the move went against RTHK’s Charter.

Yet the elimination of programs continues despite criticism from society. The long-running English-language current affairs show *The Pulse* was axed in July 2021. The program went viral after a senior World Health Organization official was asked in an interview whether Taiwan should be a WHO member. The interviewer, Yvonne Tong, quit after pro-Beijing groups accused her of using public money to incite Taiwan independence. Veteran journalist and program host Steve Vines, subsequently left Hong Kong after 35 years, citing “white terror” in reference to the current media situation in Hong Kong.

Another controversial move was the suspension of *China on the Dot* in July 2021. The show, which had been airing from

Monday to Friday for more than a decade, was one of RTHK’s best known radio programs. With the slogan “Knowing China Better”, the show featured guests talking about current affairs and livelihood issues in mainland China.

RTHK declined to offer an explanation for its suspension. A complaint from pro-establishment legislator Elizabeth Quat may be a clue. She told Li in a budget allocation meeting in April 2021 that lots of complaints had been received and *China on the Dot* was among the problematic programs. She said the program was criticised as smearing and vilifying mainland China and asked Li how to better monitor program content.

Other content affected included the live TV show *City Forum*, which was suspended in September 2021 after running for 41 years. The forum was a platform where panellists discussed social issues from different angles and took questions from the audience. Another example of censorship related to the political show *Legco Review*, in which an episode scheduled to air at the end of May 2021 was dropped. Management was unhappy that a segment of the episode was presented by pro-democracy figure Audrey Eu, and at the inclusion of footage of the June 4 marathon in Hong Kong obtained from news sources.



Former RTHK producer Bao Choy, who was convicted in 2021 for making a false statement while using the government vehicle registration database, speaks to reporters outside the Hong Kong High Court after losing an appeal on November 7, 2022. CREDIT: VERNON YUEN / NURPHOTO VIA AFP

**What is clear is that the Hong Kong government has a clear vision of turning RTHK into a promotional vehicle for national interests, national identity and national security.**

It was alleged that the segment on the marathon was aired without the Director of Broadcasting's "final approval". Staff argued that it was common practice to use news clips without prior screening. The program was later outsourced to a production team headed by a journalist working for a pro-Beijing newspaper after RTHK executives accused the producers of violating the approval process. The RTHK production team involved was taken off program-related work while the case was investigated.

#### 'Sensitive' content in the firing line

Another current affairs show to come under fire was *Hong Kong Connection*. Though it was not axed, some sensitive stories were pulled. Episodes about the difficulty of practising digital journalism in Hong Kong, the suppression of a student union by a local university, another episode related to "improving the electoral system" and an episode related to the Diaoyu Islands controversy were vetoed by the editorial committee. Topics related to events marking the Tiananmen Square

crackdown on June 4, 1989 and a follow-up to the 2019 mob attack on protesters in Yuen Long were also scrapped.

Management repeatedly emphasised that political topics could not be covered in the future. Representatives from the RTHK Programme Staff Union liaised with management to ask for concrete guidelines and an explanation of its editorial judgement to both staff and the general public. The Director of Broadcasting turned down an invitation to attend a meeting with staff. Not long after the executives banned these stories, management tapped outside contractors to make *Hong Kong Connection* episodes.

Non-current affairs programs were also affected under this new censorship system. In August 2021, artist Kong Yiu-wing received an interview request from an RTHK arts program about his exhibition *Hong Kongers' Archive of 100 Objects*, a collection of artefacts exploring Hong Kong identity. Pro-Beijing figures have always attacked the idea of a separate Hong Kong identity as unpatriotic, and Kong was unsure how the new RTHK would handle the topic. In the end, the producer did not film any of the political artefacts in the exhibition, such as copies of pro-Beijing and pro-democracy newspapers, focusing instead on vintage recording equipment. A day before it was scheduled to air, an RTHK employee called Kong to tell him the episode had been scrapped by higher-ups.

Musicians who supported pro-democracy protests have had their work banned by RTHK. DJs for radio channels say they have been instructed not to play songs by popular artists including Denise Ho and Anthony Wong Yiu-ming after the 2019 protests. Newspaper *Ming Pao* reported at the end of

January 2022 that RTHK management told presenters not to play songs, old or new, from a list of 10 singers and bands, even if they had nothing to do with politics. The report was confirmed by an unnamed DJ who told the reporter that the ban had affected programming. Affected musicians included pop and rock bands Rubber Band, C All Star and Dear Jane, as well as singers Serrini, Kay Tse, Charmaine Fong and Alfred Hui. RTHK did not deny the existence of such a blacklist. A DJ also confirmed that the station vets the guests who are invited for programme interviews. It is clear that censorship at RTHK is now carried out at a very micro level.

#### Public broadcaster no longer serves the 'public'

What is clear is that the Hong Kong government has a clear vision of turning RTHK into a promotional vehicle for national interests, national identity and national security. The intrinsic values of a public broadcaster are no longer treasured because the Chinese political system does not tolerate concepts such as civil society, public interest, editorial autonomy or the fourth estate. In its view, a public broadcaster, like other media, is not there to empower the public but to support the government.

The "public" component seems to have disappeared from the new RTHK. The broadcaster no longer requires endorsement from other public organisations or the general public. For example, RTHK made an unprecedented decision to withdraw all submitted entries to any kind of program awards – whether local or overseas – and refused to accept them. Even though some programs had been nominated for the Hong Kong Human Rights Press Awards, the New York Festivals Radio Awards and other local news awards, RTHK informed the organisers of its decision to withdraw its nominations.

Management explained that the "selection mechanism [is] under review". The HKJA and the RTHK Programme Staff Union expressed "extreme regret" and said that denying the efforts of staff members was unfair. *Ming Pao* quoted an anonymous employee who said the move went against RTHK's culture of excellence. The employee queried whether the new management was afraid that programs might win awards and preferred that they did not attract viewers.

The station no longer gives priority to public accountability, at least in notifying the public about program or content changes. In the first few months of Li's leadership, more than 12 new productions were pulled from their original airtime, all at very short notice. More than 200 past episodes of the documentary *Hong Kong Connection* and the news talk show *The Pulse* have been deleted from the public broadcaster's YouTube channel.

The functions of social media as a backup and an extension of RTHK's reach also changed. RTHK management decided in May 2021 that all RTHK programs on YouTube and Facebook would be kept for only one year, meaning that the general public could no longer retrieve earlier shows. Both primary and secondary school teachers found this change inconvenient as they had often used archived RTHK programs as teaching materials.

At the end of 2021, RTHK announced at the bottom of its website that it would "pause" the social media pages of a dozen programs. RTHK would halt the Facebook, Instagram and Twitter pages of 12 shows, which were previously operated by individual production teams. Later, it was announced that RTHK WEB+ would be shut down. The page, which posted multimedia content about e-learning, culture and music, thanked people for their backing over the years and asked them to keep supporting the public broadcaster's Facebook

**Pro-democracy scholars and other commentators who did not toe the government line were blacklisted.**

page. Such an arrangement will prevent the audience from giving feedback and interacting with individual program makers, making it more detached from the public broadcaster.

Further evidence of this detachment could be seen in RTHK's withdrawal of support for the inter-university debate competition, which has taken place since 1984. In December 2021, the organising committee invited RTHK to host the semi-final and final of the 2022 University Debate Competition, but RTHK refused to do so.

A major decision to dissolve the RTHK Programme Advisory Panel also signalled disengagement from the public. Since its establishment in 1993, the 140-member board represented different stakeholders including those from the academic, cultural and sports sectors, as well as district boards. RTHK executives could collect important opinions from this panel. However, it ceased to operate after its term ended on April 30, 2022.

An RTHK spokesman explained in early May that due to a simplification of the advisory structure of RTHK, it had found an alternate channel to collect public opinion. However, the move was widely seen as RTHK turning a deaf ear to the public. Grace Leung, a journalism lecturer at the Chinese University of Hong Kong, said the top-down approach to programming made it unnecessary for RTHK to listen to the public. It also denoted the political role that RTHK now plays.

#### Omissions and Beijing terminology in news

Unlike programmes being axed, changes in news reports are less noticeable to the general public. News regarded as sensitive was sometimes dropped. Some items were dropped at the proposal stage and others were spiked after news gathering had been completed. Since such stories never aired, the public may not be aware of their disappearance. If a sensitive story was too significant to kill, it would be played down. Events surrounding the anniversary of the suppression of the pro-democracy movement in Beijing on June 4, 1989 were good examples.

The situation worsened after the arrival of the new Director of Broadcasting. Self-censorship was no longer hidden. Pro-democracy scholars and other commentators who did not toe the government line were blacklisted.

Such omissions were not limited to politics. Staff received verbal instructions not to interview respiratory disease specialist Dr Leung Chi-chiu without reason from mid-February to late July 2022. Dr Leung, who may not toe the government line, is quite popular among journalists, especially during the Covid-19 epidemic. The timing of the blacklisting coincided with a fresh wave of the epidemic in Hong Kong, when daily cases exceeded 10,000, overloading medical facilities. Subsequently, no reason was given for Dr Leung being allowed back on air, although some speculated it might have been due to Patrick Li's departure from Director of Broadcasting to take up the position of Permanent Secretary of the Security Bureau.

Worse still, a political directive was issued. Citing the "One China" principle, RTHK issued an internal notice on July 20, 2021 outlining what terminology should be used in relation

**Citing the “One China” principle, RTHK issued an internal notice on July 20, 2021 outlining what terminology should be used in relation to Taiwan.**

to Taiwan. The government in Taiwan maintains it is an independent nation, while Beijing regards the island as part of the People’s Republic of China and has vowed to take it back, by force if necessary.

The memo states that nothing can be said or implies that Taiwan is an independent country. Use of terms such as “country” or “Republic of China” – Taiwan’s official name – are therefore banned, as are “Taiwan president” and “Taiwan government”, which should be replaced by “Taiwan leader” and “Taiwan authorities”. The memo sent to staff said that RTHK should “exercise a high level of caution in use of terminology in relation to Taiwan”. Yet management failed to explain why such a change of terminology had been made while Hong Kong’s high degree of autonomy supposedly remained intact – or indeed while mainstream newspapers continued to refer to the Taiwan government and president.

Taiwan’s Minister of Foreign Affairs Joseph Wu Chao-hsieh became the first “casualty”. In reports on the establishment of a Taiwan representative office in Lithuania, Wu’s title was changed to “person in charge of the department of foreign contacts” in RTHK’s Chinese-language news updates.

The way that news items are selected and highlighted has also come to resemble mainland media outlets. The visit by US House Speaker Nancy Pelosi to Taiwan on August 2 and 3, 2022, is a case in point. The visit was splashed across major world news outlets, but was strangely missing from RTHK on the day of her arrival. The only mention of the visit came in stories about its condemnation by the Ministry of Foreign Affairs and the Chinese People’s Political Consultative Conference in Beijing.

On the following day, among the 164 news items in RTHK’s Chinese-language *Latest News* section, just 13 were related to Pelosi’s visit – and all were condemnations by officials in the Mainland and Hong Kong as well as the latter’s pro-establishment camp. There were no reports on Ms Pelosi’s activities in Taiwan or what she said there.

An event with such immense impact on cross-strait and Sino-American relations should merit intense discussion in phone-in programs. But RTHK’s Chinese-language morning and late afternoon shows were silent on the issue. These programs usually invite guests from different walks of life to explore hot issues in Hong Kong and overseas. However, no-one was invited to discuss the Taiwan visit in the week before and after it took place.

Apart from adhering to the official Chinese government line, the depoliticisation of programming may be an added reason for the lack of discussion on Pelosi’s visit. Retired principal assistant secretary for home affairs Ng Hon-wah wrote in *Ming Pao* in mid-August that he found the two current affairs phone-in programs did not discuss any political topics in the two to three-month period before he wrote the piece. Only livelihood issues were explored.



Pro-democracy activists hold a yellow umbrella and flags that read “Free Hong Kong, Revolution Now” outside a train station in Shinjuku district of Tokyo on June 4, 2022, to mark the 33rd anniversary of the 1989 Tiananmen Square crackdown in Beijing. CREDIT: PHILIP FONG / AFP

Ng guessed sensitive topics were avoided out of caution so that RTHK would not accidentally get caught by the National Security Law. If RTHK felt compelled to exercise self-censorship in such a thorough way, he argued that it would be difficult for the government to persuade the public that the legislation had no effect on freedom of expression. He also expressed the opinion that the depoliticisation of RTHK programs may prompt people to turn to other more sensationalist media outlets.

#### **A government department with national duties**

By the end of 2021, RTHK had been completely transformed and many old elements were barely recognisable. However, the new RTHK is continuing to evolve. One possible move is that RTHK might be structurally detached from the Commerce and Economic Development Bureau to come under the newly created Culture, Sports and Tourism Bureau. An *Arts and Innovation Report* published in May 2022 by Our Hong Kong Foundation, which was founded by former chief executive Tung Chee-hwa, proposed to revamp existing government bureaus and departments, and called for the formulation of a comprehensive and industry-driven blueprint that embraces technology to guide the development of Hong Kong’s creative culture industry.

The report suggested the government should consider setting up a new agency, or amalgamating existing departments or agencies, such as RTHK, CreateHK, and the Arts Tech Task Force. This new bureau would be responsible for devising a blueprint that takes into consideration the national call to action while keeping abreast of local developments and sensitivities.

Though it is hard to predict what will happen with the establishment of the Culture, Sports and Tourism Bureau, it is very likely that RTHK will have to further integrate with other government departments and might will come under pressure to be more proactive in fulfilling its national duties. ■

## Key Findings and Recommendations

- At the IFJ Global Congress in July 2022, the IFJ and its affiliates globally and unanimously called for recognition of the urgent situation facing journalists and other human rights defenders in Hong Kong. The IFJ calls on governments around the world to support journalists seeking to leave Hong Kong via humanitarian visas or special visa programs for those needing to flee to secure their immediate safety.
- The IFJ notes the continuing exodus of journalists and news outlets to countries where they can analyse Hong Kong affairs without fear of reprisal. It also expresses grave concern at the loss of independent on-the-ground reporting that will make it harder for the global community and Hong Kong’s own citizens to gain an accurate picture of political, economic, legal and social developments in the territory.
- The international community must continue to condemn the media offensive conducted by the governments of China and Hong Kong that began under the cloak of the Covid-19 pandemic, supported by the introduction of the National Security Law and abuse of existing laws on crimes such as sedition to intimidate independent media into shutting down.
- Political leaders and civil society should join the UN Human Rights Committee in urging the Hong Kong government to repeal the National Security Law and the sedition provisions of the Crimes Ordinance. More specifically, both the Chinese and Hong Kong governments have violated obligations under international law to protect the rights guaranteed to Hong Kongers under the International Covenant on Civil and Political Rights, which was ratified in the territory and enshrined in the Basic Law.
- The IFJ urges the Hong Kong government to enact laws to empower people’s right to free flow of information, a proposal included in the UN Human Rights Committee’s General Comment No. 34, which deals with the right to freedom of expression under the International Covenant on Civil and Political Rights, and which is enshrined in the Basic Law, the mini constitution of Hong Kong.
- The IFJ urges the Hong Kong Government to fully respect the Hong Kong people’s ethos of freedom and adhere to The Johannesburg Principles on National Security, Freedom of Expression and Access to Information if the enactment of Article 23 of the Basic Law is going to take place. If Hong Kong is to keep its international status, it is critical that it abides by international standards.
- The IFJ deplors the transformation of Radio Television Hong Kong from a public service broadcaster into a propaganda arm of the Hong Kong government, and the resulting destruction of RTHK’s ability to function as a watchdog on the authorities’ use of power. It urges the Hong Kong government to restore RTHK’s identity as a genuine public service broadcaster and to rebuild media diversity to benefit Hong Kong’s people.
- Despite the ongoing influence of China over Chinese diaspora media, new Hong Kong and Chinese language media outlets are emerging in new spaces in Taiwan, UK, Canada, Australia and the US. These present an important alternate narrative of China’s story and are vitally in need of support.
- The IFJ reminds the Hong Kong authorities that media freedom facilitates the free flow of information by a diverse range of media (not only pro-China outlets), and that this is essential to Hong Kong’s status as an international finance and business centre and a world city.
- The IFJ calls on international media and media organisations to express solidarity with and support for their Hong Kong counterparts. They should continue to protest to the authorities of Hong Kong and the People’s Republic of China regarding the repression of freedom of the press, freedom of expression and the right to know.

**THE STORY THAT  
WON'T BE SILENCED**

HONG KONG FREEDOM OF EXPRESSION REPORT 2021/22

