**THE THREAT POSED BY HONG KONG’S**

**NATIONAL SECURITY LAW**

As British China specialists with long experience in teaching, research, and journalism, both in the UK and on the mainland and in Hong Kong, we wish to share our concern at the implications for academic freedom of the Hong Kong [National Security Law](https://hongkongfp.com/2020/07/01/in-full-english-translation-of-the-hong-kong-national-security-law/) (NSL). The ability to study modern China freely, to work with Chinese colleagues, to report and to make critical assessments freely, is now under serious threat. In the following text we look at several disturbing features of the new law, and make some recommendations which may be of use not only to those in British universities in the field of China studies, but to journalists, NGO workers or indeed anyone engaged in and with China.

**Harriet Evans, Stephan Feuchtwang, John Gittings** *20 August 2020*

**A. Provisions of the NSL**

1. The law applies to anyone whether in or outside Hong Kong, and to acts committed outside as well as inside Hong Kong.

*---* “An offence shall be deemed to have been committed in the Region if an act constituting the offence *or the consequence of the offence* occurs in the Region” (Art. 36) (our italics here and below).

--- “This Law shall apply to offences under this Law committed against the Hong Kong Special Administrative Region *from outside the Region by a person who is not a permanent resident of the Region*.” (Art. 38).

2. As with mainland law, the NSL employs loose terminology that can be used to brand as illegal words or actions which would not be so regarded elsewhere. This is especially true of terms such as “interfering with” or “undermining”. The crime of “subversion” includes

--- “Overthrowing or *undermining the basic system* of the People’s Republic of China established by the Constitution of the People’s Republic of China” (22:1).

--- and “*seriously interfering in, disrupting, or undermining* the performance of duties and functions in accordance with the law by the body of central power of the People’s Republic of China [PRC] or the body of power of the Hong Kong Special Administrative Region” (22:3).

3. These provisions alone mean that a critical China scholar, or anyone writing or commenting in public on Chinese affairs, may be deemed to have broken this law if he or she expresses views or reaches conclusions which the Chinese authorities regard as interference or undermining. We know how elastic the definition often is of laws applied on the mainland, when they are used against citizens who express criticism or dissent.

To give an obvious example, an assessment of Xi Jinping’s handling of the coronavirus pandemic, or a comparison of the political culture under him with that of Mao Zedong, could easily be regarded as “undermining the performance” of the PRC. Almost anything written on Xinjiang would also risk being labelled as subversive.

4. This is not a remote scenario for China scholars, or for anyone engaged professionally with China. Anyone expressing criticism of contemporary China intending to travel to the mainland – or indeed to Hong Kong – will be well advised to scrutinise what they have said or written to see whether anything might be regarded as a breach of this law.

5. Even though British scholars and others visiting or working in China have for some time been cautious about mentioning certain sensitive topics in certain situations, they have felt safe there, but these are not normal times. They should now be aware that China has threatened counter-measures over official British policies and statements regarding Hong Kong. (There is already the example of China’s counter-measures in its separate dispute with Canada by the arrest and prolonged detention of [two Canadian citizens](https://www.bbc.co.uk/news/world-asia-china-53104303)).

6. We should also note the recent [statement](https://www.asianstudies.org/statement-on-the-2020-hong-kong-national-security-law/) from the US Association of Asian Studies (17 July) expressing concern at the detrimental effects of the Hong Kong NSL on academic independence and academic teaching and research on Hong Kong and the People’s Republic of China, not only in Hong Kong but everywhere else in the world The statement warns that “the legislation’s vague wording and expansive categories of offense make it impossible to know what speech and actions will result in severe legal consequences” and it affirms that “We stand with our Hong Kong-based colleagues who are most directly affected and understand that fears for personal safety may quell some voices” This statement has been endorsed by the British Association of Chinese Studies.

 In another [statement](https://www.asianstudies.org/aas-statement-regarding-remote-teaching-online-scholarship-safety-and-academic-freedom/) on online scholarship and academic freedom (23 July), the AAS also warns that under the NSL, and especially Article 38, “the vulnerability of online communications poses a direct threat to the safety of anyone, regardless of where they reside, who teaches or studies topics deemed off-limits by the Chinese Communist Party or Hong Kong government.”

**B. Recommendations**.

1. We are aware of ongoing research in China and we encourage research exchanges with Chinese colleagues, including attending or organising conferences in China. But we recommend that as much care as possible be taken that British academic institutions and other bodies with China relationships not be used to endorse the repressive policies of the PRC. These encompass not only the rule of law in Hong Kong but apply to dissent in general, to labour rights and LGBTQ activism, and to religious practices, and in particular to repression in Tibet and to the suppression of Uyghur and other ethnicities in Xinjiang.

2. In addition we recommend that when Chinese colleagues, including postgraduate students, are included in teaching or in academic research or other professional work, there should be careful consultation with them on possible repercussions for them personally, and that ways should be found to reduce their risks of being compromised by the way that such work or research, its written results and its principal investigators might be interpreted by PRC authorities. As a necessary precaution, we should ensure that if our research partners, collaborators or co-authors gather data for shared projects, for instance, in archives or newspapers or other material – however innocuous this may appear, we need to either explicitly ensure that they understand the risks or we should gather the material ourselves and get the necessary affiliation and permission to do so.

3. We are aware that those involved in the China field, whether academically or in business or other enterprises, already take care with their Chinese colleagues not to raise issues that are at any moment sensitive to authorities in the PRC. This is a difficult area where some discretion may be necessary, but in the last analysis we should guard against self-censorship, particularly where basic issues of human rights as listed above are involved. We should always endeavour to maintain a code of strict anonymity to places where and people with whom we have consulted.

4. There are similar concerns and need for caution in employing Chinese nationals to do research on the ground or to conduct opinion polls, to work as fixers, translators etc. or to recruit students in China for courses in the UK. In the universities, the dangers may be less obvious to academic colleagues in other disciplines, who though they are principal investigators rely on Chinese researchers: they need good advice on how to avoid putting their researchers in danger.

5. There are also likely to be issues for anyone who attends conferences or professional gatherings in China. On the one hand they should be alert to the possible consequences of unguarded criticism, but they will also have to avoid allowing themselves unwittingly to endorse PRC repressive policies, via, for example, the use of social media.

6. We do not advocate any of these precautions in a spirit of hostility to the PRC. Indeed we should guard against our warning voices being used in sinophobic attacks. But we regard the Hong Kong NSL as marking a qualitative change for the worse in the relations that we have always sought to maintain with China. We defend our academic and professional independence and our right to support or to be critical of PRC rule and its policies on the basis of evidence. We also defend the right of students and of anyone seriously engaged with China to voice their differences with each other, so long as they argue with reason and from evidence.

**Harriet Evans** is Emeritus Professor in Chinese Cultural Studies, University of Westminster and Visiting Professor in Anthropology at the LSE. She served as President of the British Association for Chinese Studies, 2002-2005.

**Stephan Feuchtwang** is Professor of Anthropology at the London School of Economics, specialising in China, its civilisation and ritual, and is a former president of the British Association for Chinese Studies.

**John Gittings** reported from China for *The Guardian* over three decades. He is a Research Associate at the China Institute, School of Oriental and African Studies, London University.

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