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Hong Kong 2.0 – National Security Law

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Abstract

For Hong Kong as a prime interconnected financial hub, the enactment of the national security law is leading to ever-changing political uncertainties. From legal promises in the Hong Kong Basic Law, the Chinese Communist Party (CCP) has increasingly become apparent in Hong Kong's Special Administrative Region (SAR). Gaining ground in the media, the national security law may seem like a novel concept, but this has been a persistent endeavour since the 1990s that has finally come to an end amid the pandemic. Hong Kong has conceded the heavyweight title that it once held as global international finance centre. Chinese cities nearby in the interlocked Pearl River Delta are cropping up progressively, bringing in notable investment in developed industries such as technology, finance and manufacturing. The national security law has also garnered attention internationally. The US is taking an assertive approach, using Hong Kong as a proxy in the US-China trade war. The UK on the other hand has offered UK citizenship to 2.9 million Hong Kongers with British National Overseas (BNO) passports. In retaliation to the national security law the EU is faced with difficult task in balancing its business interests and making a strong stance vis-à-vis their fluctuating relationship with China. The EU must look at Hong Kong through a larger regional lens to implement appropriate tactics as this brisk implementation has reset Hong Kong's reality.

Mainland China has been hitting the fast forward button integrating the 'fragrant harbour' 27 years ahead of schedule. With COVID-19 pushing economies to their limits, China is firmly pulling Hong Kong more tightly within its orbit. Beijing believes it has been too lenient towards the Hong Kong Special Administrative Region (SAR) and would rather see it evolving more like its sister SAR, Macau. Shattered by infighting, Hong Kong society has been sharply demarcated into competing cohort colours of yellow (pro-democracy) and blue (pro-Beijing). As a result, Hong Kong's crown colony rule-of-law legacy risks being replaced by China's signature rule-by-law. The overused "one country, two systems" principle is fast losing value turning towards a "one country, 1.5 systems", according to student activists and think tanks. Traditionally a key connector into and from mainland China, Hong Kong is being used as a proxy battleground between the two trade war titans, an arriviste China and the incumbent US. Threats of restricted freedoms and financial de-globalisation have stoked fears in the city characterised as a Cantonese/British hybrid of cultural, legal and financial structures. Beijing appears to be willing to pay the international price for domestic stability and Party rule. China's accelerated game plan strengthening financial, manufacturing and technological hubs in the Pearl River Delta region risks marginalising Hong Kong and making it obsolete.

Hong Kong's Basic Law Bonds

Under Article 23 of Hong Kong's Basic Law, there has been a legal obligation to implement a national security law. With progressively tense protests since 2014, the attempt of introducing the extradition bill last year, China has decided to stomp boldly into the mega financial centre's arena. On 28 May 2020, China's legislature (NPC - National People's Congress), voted almost unanimously (2,878 to one) to introduce the national security law to counter "[treason, secession, sedition and subversion](#)" that carry possible life sentences. There are critical concerns about the law, especially as it has not been sanctioned by Hong Kong's SAR legislature. On the eve of the 1997 handover anniversary, the world glimpsed the national security law text for the first time and simultaneously the law was administered an hour before midnight on 30 June 2020. Hong Kong's political and economic landscape is set to change on account of the law. A new Hong Kong police force dedicated to the security law will be directly supervised by the Chinese central government's national security bureau stationed in Causeway Bay overlooking Victoria Park, known as the arena for pro-democracy protests. Drafted by lawmakers in Beijing, the legislation includes loosely defined terms such as "collusion with foreign forces", which gives plenty more leeway to the authorities to be more in line with the PRC's criminal law.

Hong Kongers (and even non-permanent residents) fear self-censorship and are mainly worried about the erosion of their guaranteed freedoms (of assembly, press and speech) laid down in the 1984 Sino-British Declaration. No sector has been left untouched – journalists are concerned while books in schools and libraries have been purged for pro-democracy sentiment. There has been a surge in VPN use and encrypted messaging apps as tech companies are reluctant to share information with the Chinese Communist Party (CCP). Beijing is deploying high-level support from Hong Kong universities, banks, business and media to sway the public. Dependent on China, businesses such as HSBC, Standard Chartered and Swire are eager for profits, thanks to good relations with Beijing and a long-term business-stable backdrop, where economics has become increasingly politicised. As Hong Kong largely endured the protests business-wise, they are confident that not much will change with the law. Nevertheless, in the short term at least, economic damage has been inflicted on tourism, industry and retail, which is major turf for mainland Chinese

tourists. If international investors are apprehensive and decide to retreat from Hong Kong, the SAR may instead see an influx of money from mainland China.

Pre-planned or Perfect Timing?

Hong Kong's reaction to this law should come as little to no surprise. In 2002, the CCP issued a consultation document, but a half a million-protest backlash resulted in the law being shelved. For twenty years, Hong Kong had been unsuccessful in implementing a security law. For Beijing, the perfect occasion to impose its will to install such a security law presented itself amid the pandemic. The CCP seemed zealous to pass the law before Hong Kong's upcoming Legislative Council elections in September. Protestors in the streets waving the US/UK/colonial HK flags touched a nerve, fuelling conspiracy theories with those countries as sources of anti-government funding. Beijing reiterates to the outside world that the instalment of the law is an internal matter in which external fears will not be tolerated. Especially since Chinese fears existed in Hong Kong being an easy target for overseas meddling with legal security loopholes.

The national security law corresponds with one of the pillars of President Xi Jinping's "Great Rejuvenation" campaign targeting economic development and national sovereignty, besides the two centennial goals of 2021 and 2049 (one hundred years after the founding of the Party). China affirms that the law does not put the "one country, two systems" model in jeopardy but rather reinforces it. Despite the repeated claim that law-abiding citizens have no cause for concern, worries lie in the need to strengthen "political responsibility", or CCP loyalty. The increasingly overt presence of CCP goes hand in hand with Xi Jinping's anti-corruption drive that wants a stronger grip on Chinese wealth using Hong Kong as a major offshore financial centre. Beijing has envisaged this introduction for decades and now sees Hong Kong as being outmoded compared to surrounding trade and financial centres.

The Pearl River Belter – HK's engulfment into China's Greater Bay Area (GBA)

The financial crisis of 2008 was an eye-opener for China to decrease its over-reliance on Hong Kong and diverge its portfolio, including on mainland Chinese financial centres, such as Shanghai, while also increasing engagement with Singapore. Hong Kong may have once been the world's biggest port, but now ranks 8th, with Shanghai muscling in and taking the lead with its doubled throughput and latest financial and trade centre status. Despite accounting for 27% of China's economic activity in 1993, Hong Kong currently accounts for 2.7% of national GDP, relegated to the 4th largest Chinese city by GDP, trailing behind Shanghai, Beijing and Shenzhen.

Thanks to connectivity, the city that was once an example to economic capitals worldwide is now to be absorbed into the Greater Bay Area. This impressive national large-scale plan is revealed by current structures to interconnect cities including the globe's longest sea crossing, the Hong Kong – Zhuhai - Macau Bridge, as well as high-speed trains from Hong Kong to Beijing. China's answer to Silicon Valley in the south is a well-connected commercial nucleus due to tycoon billion-dollar investments in Guangdong province. This has been cultivated toward obtaining strategic access to 71 million customers and an economy worth 1.6 trillion USD. With Hong Kong already relying on mainland China for essential supplies such as water and food, there are concerns that Hong Kong will become

“a new Chinese city,” in contrast to its existing cosmopolitan image as a global international business axis.

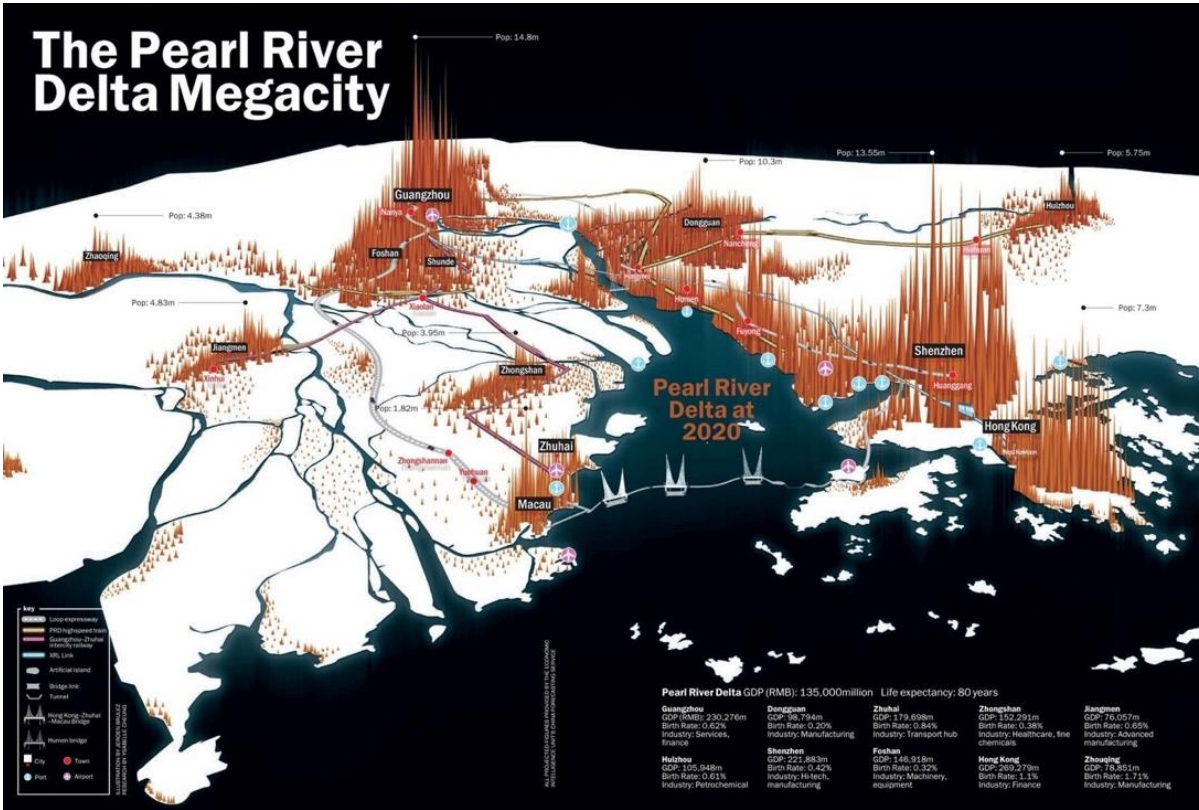


Image Credit: Visual Capitalist

Territorial Trying Times – Regional Impact

Fear of Hong Kong losing its unique status has been much anticipated. The city has lost its lustre amid ongoing protests, growing inequalities as demonstrated by the high-rise housing market prices and dwindling economic opportunities. There is particular tension among the younger generation and mainland Chinese students studying in Hong Kong, against fierce job competition and scarce employment opportunities. If Hong Kongers leave, an inflow of Chinese mainlanders will be eager to replace them in terms of investment capital and talent. This is certainly not a new phenomenon as Hong Kong saw a mass exodus of mainlanders mainly from Guangdong province in the 1950s to 1970s to pursue a better life. The migrant workers and elite class of intellectuals who escaped the Cultural Revolution purge enabled Hong Kong to turn into the prosperous offshore financial centre that it is known as today.

Although international businesses historically prefer Hong Kong due to trade ease, openness and visa requirements, financial institutions might move their headquarters to more stable regional rivals such as Singapore, Shanghai and Tokyo. Tokyo has always harboured the ambition to be a legitimate rival to Hong Kong and is likely to implement incentives to entice investors. Other potential alternatives are Macau and even Hainan as a new free trade zone. Macau has gained its status as a “good student” compared to Hong Kong, especially having already implemented a national security law in 2009. Moreover, as a result of recent events, Taiwan’s Tsai Ing-wen, one of the first leaders to give

international support to Hong Kong protests last year, has recently also openly rejected China's "one country, two systems" offer to Taiwan.

Choppy International Waters – UK and the US Approach the Harbour

With the city as the centre point where mainland Chinese businesses go to deal with the world's governing currency, the US dollar, Hong Kong's recent situation has gained a lot of traction in the press. With its own taxes, tariffs and customs administered independently of China, Hong Kong has long been an attractive option for investments and business development. However, it is precisely this mix of Chinese and Western business models in the city of fair legal courts, governing an independent central banking system, which is exposed under the introduction of the national security law. Xi vowed that China "must never copy the models or practices of other countries", stating that "We must never follow the path of Western 'constitutionalism', 'separation of powers' or 'judicial independence'". This is ominous for Hong Kong.

The contest of values vs. interests has led to mixed responses from international players. As a former colonial power, the UK holds special interests in Hong Kong. Britain holds a dual position of being a source of China's humiliation after the Opium War and a source of hypocritical pride for imparting democratic institutions in Hong Kong, just before the hand-over. Despite the bluster, British PM Johnson's offer of British citizenship to those with the pre-1997 second-class British National Overseas (BNO) passports is impractical. Given Brexit was voted largely on immigration concerns it is likely that 300,000 Hong Kongers (with 2.9 million eligible) will garner a backlash from the Conservative Party and the wider British public if this pledge would be fully enacted. Despite its improbability, this will lead to threats of serious brain drain in Hong Kong and increasing "mainlandisation" in replacing local job opportunities. In fear of the security law, key activists have wiped their social media presence and fled Hong Kong while others have stepped down from their pro-democracy groups such as the disbanding of Demosisto, once co-led by Joshua Wong, famed mouthpiece for Hong Kong youth from the 2014 protests.

Critics argue the pandemonium regarding the law has uncovered double standards from Western countries in supporting democracy and human rights in Hong Kong while clamping down on violent anti-racism demonstrations at home. Alongside digs about foreign interference, US President Trump has vowed to revoke Hong Kong's special status (in place since 1992) which has allowed it to be exempt from US trade war tariffs. The US will pass the 'HK Autonomy Act' that sanctions Chinese officials, banks and state entities that challenge Hong Kong's semi-autonomous standing. China is not backing down in the face of threats with the UK and Australia offering refuge and the US in the ongoing US-Sino trade war. In a game of bluff, Beijing is counting on its ability to outlast an unpredictable and erratic President. With the world trading in dollars, the US is seen to have an unfair advantage to sanction international players with pressure points ready to be leveraged. The US has the highest number of regional headquarters in the city of Hong Kong of which [30% have indicated they will scale down business in light of the new law](#), while many other foreign businesses said the law is irrelevant. Even if the US were to remove trading privileges this nuclear option would hurt the US and particularly Hong Kong as the HKD is pegged to the USD.

The World Needs the EU

Although Hong Kong was formerly a British colony, Prime Minister Boris Johnson is preoccupied with dwindling public confidence with his government's extremely poor handling of the pandemic, challenges of Brexit and the UK's economic situation. Now is the time for the EU to assert its position. The EU's much trumpeted human rights values, the 350,000 EU citizens residing in Hong Kong and the EU's key commercial interests, are among the substantial reasons why the EU should prioritise this kindred city in Asia. Despite the EU's dual approach of promoting values and interests, there is criticism that the EU cares more about economic ties being China's largest trading partner. More focus seems to be on settling the EU-China Comprehensive Agreement on Investment (CAI) rather than on human rights. Some argue that issuing joint statements with specific countries or the G7 alike, are merely declarative statements without spelling out the consequences. The recent EU-China summit has reminded Europeans that although China has been warned of inexplicit "negative consequences" top-level EU leaders are not taking a tougher stand towards China. Unlike America's warning to sanction, several MEPs want the European Union and the Member States to take China to the International Court of Justice in The Hague for violating the Sino-British Joint Declaration and the International Covenant on Civil and Political Rights. Although the EU is trying to placate critics by reiterating that they are "not naïve" and are to adopt a "stronger stance" regarding China, they are being urged to use their economic leverage and work more with regional partners such as Japan, Australia and India. Chancellor Angela Merkel, especially in the German-French alliance, should lead from the front during her recently acquired EU Presidency. It is time for the EU to step up as an actor in the Asia Pacific region, unveiling its own Indo-Pacific strategy. This is particularly important with China's recent bellicose activities dominant in the South China Sea. Half of EU maritime trade transiting through the Indian Ocean coupled with EU Member States' largest trading partners in Asia (including Japan, South Korea and India), are affected by the contested waters and demonstrate the need for such a stratagem. Moreover, the recent EU-Japan Connectivity strategy contests China's imposing BRI. This commencement will also allow the EU to reach out to other allies including South Korea and Vietnam and further afield.

Hitting the reset button - Hong Kong 2.0?

A more assertive China reminds Hong Kong that it is living on borrowed time. That time frame has accelerated its 2047 reality. Beijing, with its security legislation, sends the messages domestically and to the region that it is "speaking softly and carrying a big stick". In terms of relative wealth, Hong Kong seems to have lost its prime position, with surrounding prosperous cities reminding the SAR that it does not carry the same influence that it once held. Almost by osmosis, the city is slowly morphing, with laws more aligned with the mainland. The "one country, two systems" formula had been interpreted by some over time that the mainland would become more like the SAR in terms of economic liberalism and political tolerance. However, the opposite seems to ring true. With Xi Jinping publicly staking his credibility, Beijing is unlikely to concede. With mainland China's economy emerging from the COVID-19 crisis, as well as not setting growth targets for this year amid the pandemic, this move was timed to calm commotion at home. Despite international declarations of support, Hong Kong will have to rely on its own spirit and stamina as it accelerates its 2047 reality. The city may have historically been a safe haven, but now protestors will be more cautious to chant "ga yau" (add oil), unless they want to self-combust.

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