

AFTERWORD

CANARY IN THE COAL MINE

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Leaders around the world pay lip-service to academic freedom, but their governments are readily adopting laws that restrict it. Beijing's imposition of the National Security Law (NSL) on Hong Kong in June 2020 is one of the more egregious examples, with both students and faculty members heavily targeted for arrest and prosecution. Even before the promulgation of the NSL, pro-democracy and localist groups with deep roots among university students—Demosistō and Studentlocalism—were disbanded, a fact that did not protect their leaders from arrest and conviction.¹ On the faculty side, Benny Tai Yiu-ting, a former associate professor at the University of Hong Kong, was arrested and convicted in 2019 of “incitement to incite public nuisance” under the colonial era Public Order Ordinance,² in part on the basis of his published articles regarding constitutional law. One month after the NSL was passed, while awaiting appeal, Benny Tai was fired from his university position in a decision he criticised as “the end of academic freedom” in Hong Kong.³ As a result of these and other developments, by 2022, measures of academic freedom in Hong Kong, once prized as a hallmark of liberal society, had already fallen into the bottom 20% globally, joining India, China, Myanmar and North Korea.⁴ At a press conference in January 2022, Hong Kong police commissioner Raymond Siu admitted that the Hong Kong police had already arrested more than 10,270 people there in connection with the 2019 protest movement, more than 4,000 of whom are students, and 1,754 are under 18, of whom 496 have been charged,⁵

Yet due to the NSL's exceedingly generous extra-territoriality provision, anyone perceived of “provoking by unlawful means hatred among Hong Kong residents” towards the PRC or HKSAR governments, anywhere in the world, is

arguably at risk of extradition, arrest, and prosecution.⁶ While not yet enforced against non PRC/HKSAR residents residing abroad, authorities have arrested at least one US citizen (American human rights lawyer, John Clancey),⁷ and one UK citizen (Hong Kong Apple Daily founder Jimmy Lai)⁸ in Hong Kong for NSL violations. In January 2021, then HKSAR Secretary for Security John Lee announced that his department was investigating the possibility of issuing arrest and extradition warrants for two Danish politicians in Copenhagen for allegedly assisting Hong Kong lawmaker Ted Hui and his family to flee the city.⁹ By 2022, Hong Kong authorities had issued arrest warrants against at least 30 individuals residing abroad for NSL-related violations, many of them foreign nationals.¹⁰

Threats to academic freedom in Asia and elsewhere are thus having a direct and profound effect on institutions of higher education in countries where such rights have long been recognised, if not always honored. One 2021 special report on the impact of China's NSL on academic freedom commissioned by the British Association for Chinese Studies (BACS) found that a majority of UK career academics harboured reservations about raising sensitive China-related issues in the classroom. Although none of those interviewed said that they self-censored as a result, more than half went on to describe incidents in which they had in fact either self-censored or been censored in fear of facing reprisals.¹¹ In another poll of 1,500 UK academics conducted by the University of Exeter after the passage of the NSL, 41% of social scientists specialising in China admitted that they routinely self-censor when teaching students from authoritarian regimes, and 61% felt that their ability to choose teaching content was at risk.¹²

Unsurprisingly, such concerns weigh most heavily on untenured and early career researchers, rising numbers of whom are on fixed-term contracts in the UK. In some cases, the BACS study respondents reported that university administrators, departmental line managers, and even senior colleagues had impeded the career advancement of, or otherwise professionally undermined, outspoken staff members; but, in many cases, the fear of retaliation alone has proved sufficient to silence and intimidate those in more junior positions or on insecure contracts.¹³ Institutional protections for graduate student researchers, particularly while conducting research or residing abroad, are also unclear, rendering them vulnerable to violations of academic freedom and worse. In June 2021, Hong Kong Chief Executive Carrie Lam cited a state-run *China Daily* report claiming that US-based academics had employed Hong Kong students as research assistants to estimate protest turnouts as evidence that “external forces” had “penetrated” Hong Kong's universities. She urged administrators to “make sure that university students will not be easily indoctrinated” by foreign “prejudices and biases,” or “take part in activities that would breach the laws of Hong Kong.”¹⁴ Although the students were not accused of “colluding with foreign forces” under the NSL, recent cases—such as the 2016 murder of Cambridge University doctoral

candidate Giulio Regeni while conducting field research on labour rights in Egypt, and the 2019 arrest and detention of a Durham PhD student on espionage charges in the UAE—stand as stark reminders of the potential dangers involved.¹⁵

Official responses thus far have been vague and not particularly helpful. Months after the NSL was imposed, Universities UK (UUK)—an organization of university vice-chancellors and principals that seeks to shape higher education policy—released vague guidance on how UK universities might best manage the risks associated with internationalization, including “issues of extraterritorial jurisdiction...that could have a potentially chilling effect on activities in the UK,”¹⁶ without directly mentioning either China or Hong Kong. Sidestepping the more robust and detailed measures outlined in codes of conduct proposed by other organizations,¹⁷ the UUK did not go beyond reminding administrators that they “should promote transparency,” and increase their “due diligence” around “risk assessment” protocols.¹⁸ UK-based students from Hong Kong complained that the long-awaited guidance “‘only addressed the symptom, not the cause’ of China’s influence on campuses,” conveying their remarks anonymously to *Times* reporters to protect their families back in Hong Kong from retribution.¹⁹

To be fair, the erosion of academic freedom in the UK was underway before China’s imposition of the NSL in 2020, as a result of government deregulation and marketization across the “global knowledge economy.”²⁰ In 2017, less than a decade after the UK government decided to introduce competitive market pressures to the higher education sector by allowing universities to triple tuition fees and thereby boost performance, the UK dropped to the second lowest place among twenty-eight European Union states across a variety of indexes measuring academic freedom.²¹ Two years later, the UK government announced two more goals to speed up the marketization of higher education in the UK by 2030: increasing Britain’s “education exports to £35 billion per year,” and raising the number of international students in the UK to 600,000 per year. Aside from a passing mention suggesting a possible “change of approach...in response to changing Chinese law,” the 2019 strategy made no mention of academic freedom. Nor did the plan consider the potential risks of absorbing large numbers of students coming from abroad, and particularly from non-democracies like China, which now supplies nearly a third of all foreign students in the UK.²² Perhaps unsurprisingly, earlier this year, over two-thirds of polled social scientists in the UK agreed that internationalization posed a direct threat to academic freedom, particularly due to the rising influence of authoritarian states like China; and more than half admitted that their freedom to select teaching content had been seriously eroded as a result.²³

As government funding for the sector has shrivelled, UK universities have increasingly turned to private donations, further corroding their institutional autonomy. One University of Exeter researcher pointed to the increasingly

widespread “impression among staff that market demand trumps the maintenance of standards and academic freedom” when it comes to private donations, which have tripled in the UK and Ireland over the past decade.²⁴ Another colleague observed, “The open market model of university funding risks leaving individual universities vulnerable to approaches by authoritarian donors.”²⁵ Cambridge University’s Jesus College is a case in point: mocked in the British tabloids as “Xi-sus College” due to its reliance on wealthy Chinese donors,²⁶ it became embroiled in controversy when the director of its China Centre advised students to avoid raising topics like human rights and the situation of the Uyghur people in Xinjiang because such discussions could only lead to “unhelpful” and “contentious” outcomes. Tom Tughardt, chair of Parliament’s Foreign Affairs Committee, seized on the case as an example of the “distortion of academic ideas and academic freedoms” now rife in the UK,²⁷ where “nine British universities collect more than a fifth of their fee income from Chinese-domiciled students.” As a result, as Tughardt observes, “It is no surprise that these universities seem desperate to prove their Beijing-friendly credentials,” by “standing down speakers under pressure from the Chinese embassy,” and allowing Confucius Institute staff members to confiscate papers that so much as mention Taiwan.²⁸

The impact of the NSL in Hong Kong and China’s rising economic leverage over the higher education sector in the UK represent only a narrow part of the broader spectrum of “actually existing” academic freedom on a global scale. If the process of steady erosion described here is best understood in the context of what Dimitar Gueorguiev describes in his introduction to this volume as the global “intellectual ecosystem,” the case of post-Brexit Britain should be seen as a canary in the coal mine. Our long-held faith in the security of our academic freedom to study Asia is eroding even in the West, and we should act now, for we are quickly running out of air.

Notes

¹ Wong, Sheldon. “Hong Kong 2020: The downfall of One Country, Two Systems,” *Asia Maior* Vol XXXI (2020). Available at <https://www.proquest.com/scholarly-journals/hong-kong-2020-downfall-one-country-two-systems/docview/2562568308/se-2>

² Hong Kong’s Public Order Ordinance was originally promulgated in 1967. See https://www.elegislation.gov.hk/hk/cap245?xid=ID_1438402885888_002

³ Patrick Kar-wai Poon, “Benny Tai – Testing the Bottom-Line of Academic Freedom and Freedom of Expression in Hong Kong,” *Transtext(e)s Transcultures* 16, December 2021. Available at: <http://journals.openedition.org/transtexts/1558/>. “Lingnan University needed no such excuse; working towards the Führer, it simply refused to renew the contracts of two pro-democracy professors, neither of whom were charged with criminal behaviour.” See Peter Baehr, “Hong Kong Universities in the Shadow of the National Security Law,” *Society* (2022) 59:225–239.

⁴ Katrin Kinzelbach, Staffan I. Lindberg, Lars Pelke, and Janika Spannagel. 2022. Academic Freedom Index 2022 Update. FAU Erlangen-Nürnberg and V-Dem Institute. DOI: 10.25593/opus4-fau-18612, available at <https://www.pol.phil.fau.de/files/2022/03/afi-update-2022.pdf>

⁵ Cheryl Tung and Jojo Mann, “More Than 100 Charged Under Hong Kong’s National Security Law Amid Ongoing Crackdown,” Radio Free Asia, 27 January 2022. Available at <https://www.rfa.org/english/news/china/charged-01272022104652.html>.

⁶ National People’s Congress Standing Committee [PRC], “The Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region,” 01 July 2020, available (in English) at <https://www.chinadaily.com.cn/a/202007/01/WS5efbd6f5a310834817256495.html>

⁷ Selina Cheng, “American lawyer John Clancey among Hong Kong mass arrests as police raid law firm Ho Tse Wai & Partners,” Hong Kong Free Press 6 January 2021, available at <https://hongkongfp.com/2021/01/06/american-lawyer-john-clancey-among-hong-kong-mass-arrests-as-police-raid-law-firm-ho-tse-wai-partners/>

⁸ The Editorial Board, “The British and Jimmy Lai,” Wall Street Journal, 26 July 2022, available at <https://www.wsj.com/articles/the-british-and-jimmy-lai-u-k-prime-minister-election-rishi-sunak-liz-truss-china-hong-kong-11658862359>

⁹ Sebastian Skov Andersen, “Meet the Danish politicians wanted by Hong Kong for helping lawmaker Ted Hui flee the city,” Hong Kong Free Press (24 January 2021), available at <https://hongkongfp.com/2021/01/24/meet-the-danish-politicians-wanted-by-hong-kong-for-helping-lawmaker-ted-hui-flee-the-city/>

¹⁰ US Department of State, “2022 Hong Kong Policy Act Report,” 31 March 2022, available at <https://www.state.gov/2022-hong-kong-policy-act-report/>

¹¹ Samantha Hoffman, “The Hong Kong National Security Law and UK Academic Freedom,” a report commissioned for the British Association of Chinese Studies (July 2021), available at <http://bacsuk.org.uk/wp-content/uploads/2021/08/BACS-HK-SSL-report-HoffmanS.pdf>

¹² “Over two thirds of UK social scientists warn their academic freedom is under threat, new study shows,” FE News, 22 February 2022, at <https://www.fenews.co.uk/education/over-two-thirds-of-uk-social-scientists-warn-their-academic-freedom-is-under-threat-new-study-shows/>

¹³ Hoffman, “The Hong Kong National Security Law,” p. 4.

¹⁴ Kelly Ho, “Hong Kong universities ‘penetrated by foreign forces’ intent on ‘indoctrinating’ students, claims Chief Exec. Carrie Lam,” Hong Kong Free Press, 8 June 2021, available at <https://hongkongfp.com/2021/06/08/hong-kong-universities-penetrated-by-foreign-forces-intent-on-indoctrinating-students-claims-chief-exec-carrie-lam/>.

¹⁵ John Elmes, “Giulio Regeni murder an ‘attack on academic freedom,’” Times Higher Education, 21 February 2016. Available at <https://www.timeshighereducation.com/news/giulio-regeni-murder-attack-academic-freedom>. Also noteworthy is the 2018 arrest and

detention of Durham University PhD candidate Matthew Hedges on espionage charges in the UAE. “Matthew Hedges: my UAE spy arrest shows universities must do more to protect academics working in the field,” *The Conversation*, 14 October 2019. Available at <https://theconversation.com/matthew-hedges-my-uae-spy-arrest-shows-universities-must-do-more-to-protect-academics-working-in-the-field-115506>

¹⁶ Universities UK, “Managing the Risks in Internationalisation: Security Related Issues,” October 2020, p. 25. Available at <https://www.universitiesuk.ac.uk/sites/default/files/uploads/Reports/managing-risks-in-internationalisation.pdf>

¹⁷ See Human Rights Watch, “Resisting Chinese Government Efforts to Undermine Academic Freedom Abroad:

A Code of Conduct for Colleges, Universities, and Academic Institutions Worldwide,” September 2020. Available at https://www.hrw.org/sites/default/files/media_2020/09/190321_china_academic_freedom_coc.pdf; Academic Freedom and Internationalisation Working Group (AFIWG), “Model Code of Conduct: Protection of Academic Freedom and the Academic Community in the Context of the Internationalisation of the UK HE Sector,” November 2020. Available at <https://hrc.sas.ac.uk/sites/default/files/files/AFIWG/Revised%20Model%20Code%20of%20Conduct%20-%20November%202021.docx.pdf>.

¹⁸ Universities UK, “Managing the Risks.”

¹⁹ Nicola Woolcock, Charlie Parker, and Fiona Hamilton, “Universities plan secret seminars to tackle spies; Foreign interference on campuses is ‘national security risk,’” *The Times*, 15 October 2020, p. 1.

²⁰ Bamberger, Paul M. and Miri Yemini, ‘Neoliberalism, Internationalisation and Higher Education: Connections, Contradictions and Alternatives’, *Discourse: Studies in the Cultural Politics of Education*, 40.2 (2019), 203–16 (p. 212).

²¹ Terence Karran and Lucy Mallinson, “Academic Freedom in the U.K.: Legal and Normative Protection in a Comparative Context,” Report for the University and College Union, May 2017, available at https://www.ucu.org.uk/media/8614/Academic-Freedom-in-the-UK-Legal-and-Normative-Protection-in-a-Comparative-Context-Report-for-UCU-Terence-Karran-and-Lucy-Mallinson-May-17/pdf/ucu_academicfreedomstudy_report_may17.pdf

²² UK Department for Education and Department for International Trade, ‘International Education

Strategy: Global Potential, Global Growth’, 16 March 2019, available at <https://www.gov.uk/government/publications/international-education-strategy-global-potential-global-growth>; the most recent Higher Education Statistical Agency figures show that there were 605,130 international students studying in the UK as of 2020/2021, 32% of whom come from China. See “International Student Statistics in UK 2022,” *Studying-in-the.UK.org*, available at <https://www.studying-in-uk.org/international-student-statistics-in-uk>.

²³ University of Exeter, “Over two thirds of UK social scientists warn their academic freedom is under threat, new study shows,” (22 February 2022), available at <https://www>.

fenews.co.uk/education/over-two-thirds-of-uk-social-scientists-warn-their-academic-freedom-is-under-threat-new-study-shows/

²⁴ University of Exeter, “Over two thirds of UK social scientists”

²⁵ Patrick Wintour, “Academics warn of ‘chilling effect’ of Hong Kong security law,” *The Guardian*, 12 October 2020. Available at <https://www.theguardian.com/education/2020/oct/12/academics-warn-of-chilling-effect-of-hong-kong-security-law> .

²⁶ Guy Adams, “A double first in double standards,” *The Daily Mail* 28 January 2022. Available at <https://www.dailymail.co.uk/news/article-10453607/A-double-double-standards.html>.

²⁷ Helen Raleigh, “It’s Time We Recognize Universities In The West Have A China Problem,” *The Federalist* 09 June 2021. Available at <https://thefederalist.com/2021/06/09/its-time-we-recognize-universities-in-the-west-have-a-china-problem/>

²⁸ Tom Tugendhat, “China links pose a threat to academic freedom in Britain,” *Financial Times*, 19 June 2021. Available at <https://www.ft.com/content/f96e158c-a7ce-489d-846a-3445114752dd>.