

Wounded But Not Dead

Partial academic freedom survives in Hong Kong – and we should support it

By [Carole J. Petersen](#)

Despite its tiny size, Hong Kong has [three universities ranked in the top 100 in the world and five ranked in the top 200](#). Their success is partly due to the territory's tradition of respecting academic freedom and educational autonomy. This is not to suggest that Hong Kong universities were ever immune to government interference. Even in the colonial period, the government had considerable influence over university councils. But individual academics enjoyed far greater freedom than their counterparts in mainland China.

The Sino-British Joint Declaration promised to preserve that freedom after 1997. Similarly, the [Hong Kong Basic Law](#) contains detailed language protecting educational autonomy and academic research. It also provides for the continued enforcement of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which protect academic freedom.

Unfortunately, Hong Kong academics are now facing unprecedented challenges. Beijing has

taken a direct role in local governance and mandated that only “patriots” can serve in the Legislative Council. This means that it will be packed with pro-Beijing politicians, many of whom view academics in a very negative light. Beijing has also imposed a [National Security Law](#) (NSL), which has created new security institutions and broadly defined criminal offenses, including secession, subversion, and collusion with foreign forces. Although Hong Kong's chief executive insisted that the NSL was necessary to stop acts of violence by anti-government protesters, that is not how the NSL has been employed. Rather, the [police are using the NSL to suppress entirely peaceful expressions of opposition](#). The NSL also empowers the local government to implement national security education in schools and universities. The Education Bureau has already issued new curriculum guidelines for primary and secondary schools; it also has banned all political activities at public schools, including singing the popular protest anthem “Glory to Hong Kong.”

The Hong Kong government has, however, taken a more nuanced approach to tertiary education. In December 2020, [the Education Bureau affirmed](#) that the “specific safeguards of academic freedom and institutional autonomy enshrined in Articles 34 and 137 of the Basic Law remain in full force.” It issued that statement to correct what it claimed were inaccurate media reports that it planned to curtail university exchange programs between Hong Kong and Taiwan. Clearly, the local government still cares, at some level, about the international reputation of its universities. So, rather than dictate a curriculum, the government has reportedly told the eight public universities to develop their own courses on national security. [Universities also have been warned](#) to prevent violations of the NSL on their campuses. This may explain why

[staff at the Chinese University of Hong Kong called the police when a tiny group marched peacefully through campus last November carrying banners and chanting slogans. Police characterized the march as “incitement to secession.”](#)

Many commentators have concluded that these developments mark the end of academic freedom in Hong Kong. [Kevin Carrico](#) opined that the best way that we can help Hong Kong academics is to offer them refuge when they flee. Yet the majority of Hong Kong academics are not leaving the territory, at least not yet. They are endeavoring to maintain space for their teaching and research in the hope that they can still do meaningful work and provide their students with a quality education. Indeed, in the past ten months, Hong Kong academics have organized numerous public events discussing the NSL and other controversial areas of law and policy. Journals edited by Hong Kong universities continue to publish research on politically sensitive topics. The LLM in Human Rights is still offered at the University of Hong Kong, with the opportunity for full scholarships. Academics are working hard to develop university policies to protect their freedoms, to the fullest extent possible under the NSL.

Many Hong Kong academics also continue to promote human rights in the broader community. They know that local democracy has been stifled and there are certain red lines that they cannot cross now without risking arrest. But they still hope to use their expertise to promote progress, at least in areas that pose no obvious threat to Beijing, such as affordable housing, health care, gender equality, the rights of persons living with disabilities, and the quality of Hong Kong’s physical environment.

The international community should actively support our colleagues in Hong Kong, as we do in many other jurisdictions that we know are only “partly free.”

Of course, academics and university leaders are also waiting to see how the Hong Kong courts will interpret the NSL. In the recent case of [Hong Kong SAR v. Lai Chee Ying](#), the Court of Final Appeal confirmed that the NSL should be construed, to the extent possible, to give effect to NSL Article 4, which provides that the rights protected by the ICCPR, the ICESCR, and the Basic Law shall continue to be enjoyed by Hong Kong residents. (See paragraphs 44-46 and 70.) That is cold comfort for people who have been arrested under the NSL, many of whom have been denied bail while awaiting trial (because Article 42 of the NSL reverses the normal presumption in favor of bail). But this principle offers hope that the local courts will eventually interpret vaguely defined offenses in the NSL so as to comply with the ICCPR. In my view, an ICCPR-compliant interpretation of the NSL would not criminalize peaceful expressions of opposition to the government or advocacy for multi-party democracy.

In short, academic freedom in Hong Kong is clearly wounded but we should not declare it dead, not just yet. Instead, the international community should actively support our colleagues in Hong Kong, as we do in many other jurisdictions that we know are only “partly free.” I hope that international scholars will continue to submit articles to journals based at Hong Kong universities. We should continue to organize webinars on Hong Kong issues and offer to collaborate with them on research projects and international conferences. If you feel

comfortable doing so, visit one of Hong Kong's universities and see for yourself whether the academics are still practicing academic freedom.

Perhaps most importantly, we should all [support the call for university ranking systems to expressly include academic freedom and educational autonomy in the criteria](#) for a top-ranked university. Governments are sensitive to rankings and Hong Kong has long aspired to be a “regional hub” for higher education. This could provide some leverage for academics who are lobbying for robust policies protecting academic freedom and educational autonomy, even in the shadow of the NSL.

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