

Charting a Safe Course: Re-establishing UK Commitments to Hong Kong Citizens

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Abstract

To affirm the UK's engagement in the Indo-Pacific and uphold its obligations to its Overseas Territories, the UK Government's primary objective must be to enhance its commitment to Hong Kong citizens recently affected by political change in Hong Kong. The People's Republic of China's (PRC) gradual violation of Hong Kong's legislative independence and subsequent sanctioned repression by Hong Kong authorities represent a deliberate breach of the 'one country, two systems' principle underpinning the 1984 Sino-British Joint Declaration (SBJD). A passive UK response to aggressions by the Chinese Communist Party (CCP) would invite further challenges to international rules, undermine the UK's credibility in the Indo-Pacific, and foster distance between the UK and its Overseas Territories.

In light of the UK Government's primary objective to protect Hong Kong-UK citizens, this policy report analyses events leading up to social unrest in Hong Kong and subsequently devised the UK's British National (Overseas) (BN(O)) visa scheme. While current BN(O) visa policy can be commended, the scheme should be enhanced to remove barriers to visa application and protect the demographic majority of Hong Kong protesters currently ineligible for the BN(O) scheme. The report also outlines options for financial assistance for BN(O) holders on UK arrival, and addresses the vulnerability of BN(O) holders in the UK to CCP surveillance, given the likely use of surveillance to track BN(O) holders in the UK. This exposes a wider vulnerability to CCP surveillance in the UK's national infrastructure. These policies will protect both UK citizens and BN(O) holders, as well as UK national security, but will also signal to the CCP that the UK remains firm in the defence of its national sovereignty. The report recommends a revised, more engaged BN(O) visa scheme, a financial assistance policy, and a stricter anti-surveillance policy.

Keywords

United Kingdom; China; Hong Kong; British Nationals (Overseas); British Foreign Policy; Sino-British Joint Declaration

Hong Kong under British Rule and the Sino-British Joint Declaration

Hong Kong was part of the British Empire from 1841 to 1997, as legally outlined by the 1898 New Territories Lease. This leased territories to Britain for a period of ninety-nine years, hence making 1997 the recognised standard for final British withdrawal from Hong Kong (Lo, 2014). Throughout this period, the UK maintained a significant presence in Hong Kong, as the city played a key financial role in Britain's East Asian Empire. After the CCP's success in the Chinese Civil War in 1949, the PRC's isolation from the global economic system necessitated the toleration of British colonial rule in Hong Kong, as this functioned as a critical link to the Western world (Osterhammel, 2004). However, by 1984, the Sino-British Joint Declaration (SBJD) was signed, establishing the transfer of Hong Kong as a newly formed special administrative region of Chinese territory from 1997 until 2047 (Lo, 2014). In 1985, Britain began implementing democratic reforms in the colony, introducing functional constituency elections to the Legislative Council. Further democratic reform was stiffly opposed by Beijing (Ibid.). Despite certain failures of democratic reforms, the territory maintained an independent judiciary, and freedom of speech, press, and assembly (Ibid.).

Since 1997, the UK has retained many responsibilities to Hong Kong under the SBJD. Under the terms of the Declaration, Hong Kong maintains autonomous governance and an independent economic system, while the PRC maintains authority over the city's foreign affairs and defence. This is referred to as the 'one country, two systems' principle, which has hitherto remained an enduring principle of the UK-Hong Kong-China relationship (Foreign and Commonwealth Office, 2021).

Although the UK has no legal responsibilities to Hong Kong since the handover, it maintains a tacit responsibility to ensure the city's and China's compliance over their declared legal responsibilities. In June 2020, China imposed national security legislation on Hong Kong, which brought the city's domestic security under the jurisdiction of the PRC (Summers, 2021), and in March 2021, the PRC introduced electoral reform in Hong Kong, which reduced the number of publicly elected congressional seats (Ibid.). China has thus violated the terms of the SBJD, which determined Hong Kong as sovereign over its domestic affairs (referred to as 'Hong Kong Basic Law'), and infringed its agreement that it would not interfere with the legal and

political autonomy of Hong Kong outside of foreign and defence affairs (Summers, 2021).

As the UK's room for manoeuvre within Hong Kong territory is severely constrained, the UK has a responsibility to protect Hong Kong nationals vulnerable to unfounded persecution and seeking security in the UK. The UK must be aware of the impact of the Hong Kong protests on BN(O) visa applicants seeking to enter the UK at a higher rate.

Overview of Hong Kong's Protests (spring 2019-end 2022)

The 2019 Hong Kong protests were provoked by controversial amendments to the Fugitive Offenders Ordinance, known as the Extradition Bill, that provided PRC authorities power to try Hong Kong citizens in mainland China (CCPOS, 2020). The protests, which were marked by widespread demonstrations, civil disobedience, and violent clashes with the police, demanded the withdrawal of the Bill and the investigation into the use of force by the Hong Kong police, and were ultimately abated by the National Security Law and the outbreak of COVID-19 (BBC news, 2019a).

- According to organisers, 1 million protesters attended on 6 June and 2 million on 16 June (Cheng et al., 2022).
- Approximately 10,000 people were arrested during protests (Ho, 2022).
- The Movement also reflected the lack of trust in the mainland's legal system: in a June 2019 poll by the Chinese University of Hong Kong (CUHK), 58% did not think that those extradited to the mainland would have a fair trial, while only 15% thought that there were fair trials in the mainland (Lee et al., 2019b).

The protests developed in three stages:

- 1. June-July 2019:** Clashes between protesters and police broke out, in which police used tear gas and rubber bullets. By 1 July, protesters had broken into the Legislative Council building. Chief Executive Carrie Lam ambiguously announced the amendment was scrapped, but protests did not subside (Huang, 2019). Uninvited violent mobs and their suspected collusion with authorities (as in the Yuen Long MTR station attack) led more passive citizens to turn against the police (Purbrick, 2019).
- 2. August-September 2019:** Protests intensified, with violent escalation

between police and protesters. City-wide strikes shut down the city and its airport. Tear gas and rubber bullets were frequently used by the police to attack ‘illegal’ protesters. Due to the scale of protests, Carrie Lam formally withdrew the amendments on 4 September (Purbrick, 2019).

3. October-December 2019: The police entered universities for the first time to crack down on protesters. On 18 November, the police fired 1,458 tear gas canisters and 1,391 rubber bullets at the Hong Kong Polytechnic University, and 1,100 people were arrested (Huang, 2019).

In a 2019 Chinese University of Hong Kong survey, 44.3-76.6% of the protesters in the Anti-Extradition Bill Movement had also participated in the 2014 Umbrella Movement (Lee et al., 2019a). The 2019 Anti-Extradition Movement differs from the 2014 Umbrella Movement mainly in terms of the reasons, scale, manner, and results of the protests. As outlined in *Table 1*, civil unrest in Hong Kong worsened in intensity and danger. This rising trend in police violence necessitates an assertive UK response, especially in light of the foreseen amendments to the National Security Law, which are expected to further suppress dissident voices in Hong Kong (Curtis, 2021).

Table 1

	<i>The 2014 Umbrella Movement</i>	<i>The 2019 Anti-Extradition Movement</i>
<i>Causes/ demands of the movements</i>	<ul style="list-style-type: none"> Sparked in opposition to the 2014 National People Congress’ decision that the Hong Kong’s Chief Executive would be elected among pre-approved candidates by Beijing. Demanded democratic universal suffrage from the central government and the HKSAR and the resignation of specific executive officials (Lee et al., 2019a). 	<ul style="list-style-type: none"> Sparked by the HKSAR government’s decision to amend the Hong Kong Fugitive Offenders Ordinance. The public opposed the extradition of suspects to the unfair mainland trials and the undermining of Hong Kong’s independent jurisdiction under the Basic Law. Demands called for the resignation of the Chief Executive, universal suffrage, the right to hold democratic demonstrations, and accountability for the police’s violent enforcement (Lee et al., 2019a).

	<i>The 2014 Umbrella Movement</i>	<i>The 2019 Anti-Extradition Movement</i>
<i>Scale and tactics of the movements</i>	<ul style="list-style-type: none"> • Scale: approximately 1.2 million people participated. • Duration: lasted 79 days. • Tactics: mainly a peaceful occupation movement led by individual leaders rather than violent protests. • The continued occupation took the form of protesters passively protecting the occupied areas by using umbrellas to fend off tear gas and pepper spray repellents from the police. (Lee et al., 2019b). 	<ul style="list-style-type: none"> • Larger scale (approximately 2 million protesters). • Duration: spanned more than four years without fully ending (mainly because of the subsequent arrests and trials of protesters) (BBC News, 2019b). • Tactics: stark increase in violence: after June, protests were characterised as riots, and police used pepper spray, smoke bombs, rubber bullets, tear gas, batons, and hoses, to disperse or arrest protesters. By early 2020, about 7,000 people had been arrested and thousands more injured (Hui, 2020). Police brutality resulted in the radicalisation of demonstrations, inciting further extreme measures by police. <p>Key stats:</p> <ul style="list-style-type: none"> • “<i>When the government fails to listen, the use of radical tactics by protesters is understandable</i>” → 69% of respondents in June, rising to 83.5% and then 90% over the summer. - “<i>Radical protests could make the government heed public opinion</i>” → from 38.2% to over 60%, between June and after September. - “<i>The maximum impact could be achieved only when peaceful assembly and confrontational actions work together</i>” → 71.0% to 91.9% of respondents (CCPOS, 2020, pp. 61-62).
<i>Results of the protests</i>	<ul style="list-style-type: none"> • Failed. • By December 2014, the occupation by the protesters was all cleared. • The demands were not met. 	<ul style="list-style-type: none"> • Partial failure, with only one of the five major claims being met, but triggering more serious consequences: • On 4 September 2019, the extradition bill was officially withdrawn (Huang, 2019). - The US, the UK, and other Western countries suspended their extradition treaties with Hong Kong. - China enacted the National Security Law on 30 June 2020, triggering mass emigration.

PRC and Hong Kong Responses - National Security Law

On 29 July 2019, China stated that the Central Government firmly supported Carrie Lam and the Hong Kong police's strict enforcement of the law, condemning protestors' riotous behaviours (Xia et al., 2019). However, it was not until June 2020 that the PRC took substantive action, passing *the Law of the PRC on Safeguarding National Security in the Hong Kong SAR* as a direct legal response.

The National Security Law (NSL) contains detailed legal provisions for the Hong Kong government to penalise crimes such as “secession, subversion, ... terrorist activities, and collusion with a foreign country ... to endanger national security” (Hong Kong SAR, 2020, p. 2). According to the UK Government's November 2020 Six-Monthly Report on Hong Kong, a total of 40 people were arrested by the Hong Kong police under the NSL in the five months after it came into force (Foreign & Commonwealth Office, 2021). Multiple pro-democracy lawmakers and activists, including university students, were arrested by the Hong Kong police under the NSL for allegedly displaying political signs and chanting slogans. Concerted efforts by historically peaceful activist groups to lawfully protest have also been the target of police crackdowns on protesting. Given the vague wording of the National Security Law, this provides more discretionary power for authorities to charge pro-democracy advocates with breaches of the law. For example, in October 2019, the Hong Kong police denied a request from activist organisation Civil Human Rights Front to protest against a government ban on masks (Chau, 2023).

Between 2017 and 2023, Hong Kong's score in Freedom House's report for the quality of civil liberties granted to citizens fell from 45/60 to 32/60, classifying Hong Kong as “partly free” (Aghekyan et al., 2017; Freedom House, 2023). The Hong Kong Special Administrative Region's (HKSAR) actions range from the arrest and detainment of pro-democracy activists, lawmakers and students to widespread crackdowns on the media's freedom of press. On 6 January 2021, 55 leaders of Hong Kong's pro-democracy campaign were arrested on suspicion of conspiring to overthrow the existing government (BBC News, 2021a). On 1 March 2021, having been released on bail in preparation for their court appearances, 47 of these 55 were charged with subversion on arrival at Hong Kong police stations for detention (Ibid.). As of 31 May 2022, over 10,000 protesters have been arrested for subversion

of the law through pro-democracy protests, and 28% of these have been prosecuted and remain in prison (Mok, 2022).

Spokesperson for Human Rights Watch Maya Wang said of this recent trend in police activity:

“People are left with the choice of either staying home and keeping their opinions to themselves, or attending an unauthorized protest and risking police violence, arrest, and imprisonment. Rather than protecting public safety, the police’s intention seems to be to dissuade people from publicly expressing their views.” (Wang, 2019).

This trend in repressive activity by the Hong Kong authorities shows little sign of abating. This is of particular concern as regards the safety of protesters with BN(O) status, for whom the UK should continue to act with urgency in offering protection. Proposals for amendments to the NSL are in development in Hong Kong. In September 2021, Hong Kong Security Secretary Chris Tang disclosed that Hong Kong’s civil authorities were beginning work on new legislation that would bring new crimes under the existing NSL (Curtis, 2021). Chris Tang said of the prospective crimes: “We didn’t pay much attention to espionage activities in the past and now we are studying whether we need to regulate that” (Ibid.). This is of significant concern with regards to the security of surveillance systems in the UK and their connection to Chinese-owned companies, such as Dahua and Hikvision (Biometrics and Surveillance Camera Commissioner, 2023). Moreover, the NSL is said to grant more authority to Hong Kong authorities in the freezing of assets and collection of evidence (Ibid.). Given these developments, the UK should be developing long-term security aims for Hong Kong citizens.

UK Action in Hong Kong: Strategic and Geopolitical Considerations

Although the UK has a clear incentive to maintain an international stance on the protection of democratic values and freedom (particularly vis-à-vis a former colony), the question of Hong Kong lies beyond the historical relationship of patronage between the UK and the city. Hong Kong is today at the core of Sino-US tensions (Nathan 2022). According to US State Department data, there are more than 1,300 firms in the city, as well as more than 85,000 US nationals (Bureau of East Asian and Pacific Affairs, 2019). Being a crucial bridge between mainland China’s hard-to-navigate

markets and Western capitalism, Hong Kong has long been an international financial, trading, and logistics hub indispensable to the US (Osterhammel, 2004). Hence, Hong Kong's threatened capitalist ecosystem and autonomy pose significant concerns for the US's long-term financial interests. The city, and the question of the retention of its freedom (human and economic), lies at the epicentre of great power geopolitics (Fong, 2022). Therefore, Hong Kong is a strategic buffer zone, which compels a choice of alignment by the UK according to its commitments both to the US-UK alliance and to its 'Global Britain' aspirations in support of democratic and liberal values in the Indo-Pacific (Breslin & Burnham, 2023). Most importantly, the UK cannot exercise an increased presence in the region without addressing the current rising geopolitical competition. A firm UK stance will be especially pertinent to the rising geopolitical flashpoint over the potential use of force against Taiwan, and Chinese military expansion in the South China Sea (Ibid.). In contrast to the narrative that the UK must choose between focusing on developments in Europe or the Indo-Pacific, this paper operates under the understanding that while the UK makes concerted efforts to counter the challenges to the values of self-determination in Ukraine, it must also undermine similar challenges in Hong Kong and the wider Indo-Pacific.

Given the limitations of strategic action in Hong Kong, this paper limits its analysis to protecting Hong Kong citizens who have immigrated into the UK. This is augmented by a human security lens to recognise that treating Hong Kong peoples as victims to be protected necessarily informs measures to enhance UK state security against increasing threats from China. A human security approach can serve multiple functions. It aims to:

1. Signal to the US and the UK's allied partners in the Indo-Pacific that the UK remains committed to countering Chinese intransigence in the region and thus strengthening its key strategic alliances.
2. Signal to China that the UK will make a concerted effort to counter its effort to undermine the rules-based international order while minimising the risk of aggressive reprisal from China.
3. Maximise the UK's strategic room for manoeuvre in the Indo-Pacific by appearing to act more conservatively.

These three functions cannot be achieved by the UK opting for a more confrontational, military-centred approach to countering the actions of

Chinese and Hong Kong authorities in Hong Kong.

Besides allowing the UK to bolster its geopolitical status and uphold its historic ties and commitments to Hong Kong, the adoption of a BN(O) policy aimed at protecting Hong Kong emigrants equally carries more tangible benefits. The UK is currently experiencing a severe labour shortage, particularly within industry sectors requiring little to no skills. According to the latest statistics, the top two sectors facing a labour shortfall are accommodation and food services activities, with 25.3% of all businesses in the sector experiencing labour shortage, and manufacturing, with 17.4% (Statista, 2023). Hong Kong citizens living in the UK under the BN(O) scheme appear to have the potential to mitigate this shortage by demonstrating high flexibility when seeking employment after immigrating into the UK, often starting in entry-level positions (Westbrook, 2022). Furthermore, the third highest sector experiencing a labour shortage is human health and social work activities (Statista, 2023). Despite their showing great flexibility when finding themselves at career crossroads, many Hong Kong citizens possess valuable skills and qualifications in the healthcare sector, which could allow them to contribute to filling gaps in the UK's National Health Service (NHS) workforce. This potential is corroborated by NHS-employed Hong Kong nurses' establishment of a diaspora group providing advice and support to BN(O) Hong Kongers seeking a career in nursing upon their arrival in the UK (HKNAUK, 2021; MHCLG, 2021).

Crucial to the enduring protection of Hong Kong citizens residing in the UK is establishing a comprehensive strategy to protect UK residents from interference by CCP and Hong Kong authorities (Gorokhovskaia and Linzer, 2022). This means developing a robust policy on the operation of Chinese-owned surveillance companies in UK, as well as a financial outreach strategy to undermine attempts by CCP and Hong Kong authorities to financially pressure Hong Kong emigrants. In fact, a human security approach is compatible and complementary to the strategic goal of eliminating Chinese access to data on UK citizens on UK soil. As such, they must be pursued in a coordinated manner. These two combined approaches constitute the maximum yield of action from the UK that can achieve the protection of UK citizens and interests but does not involve active confrontation. The UK's limited scope of action may not allow it to change the fate of Hong Kong, but it allows for a nuanced approach suitable to achieve substantial results in both

the human security and domestic security spheres, without resulting in great-power escalation.

Policy Recommendations

Given the limitations of UK strategic action in Hong Kong, the UK's strategic priority is the protection of Hong Kong citizens who have immigrated into the country. The present options directly address the following headline strategic commitments of the 2023 Integrated Review:

- “[Bolstering] national security protections in those areas where CCP actions pose a threat to our people prosperity and security”
- Preparing “to address contestation and confrontation” while prioritising “better cooperation and well-managed competition”
- “Prioritisation of strategic advantage in science and technology as a core national priority”

(HM Government, 2023, pp. 11-14)

The following policy options provide potential courses of action for the BN(O) visa, finance, and surveillance, as policy areas capable of providing the maximum room for manoeuvre over the situation in Hong Kong. Each policy area provides a ‘hard’ and ‘soft’ policy option, based on the extent of pursued engagement in the Hong Kong crisis. Additionally, the policy options consider a multitude of risks in acting against the Hong Kong and PRC government: antagonising China, frustrating the current negative perception of migration in the context of the domestic housing and living crisis, and public pressure to de-couple from China. The paper's final policy recommendation is to adopt a combination of a hard BN(O) process policy, a soft finance policy and a hard surveillance policy.

BN(O) scheme and immigration

Overview

The Hong Kong BN(O) visa policy announced in July 2020 was the UK's direct policy response to the Hong Kong protests, allowing Hong Kong citizens who were born before 1997 and applied for BN(O) status before 1997, as well as their children under 18, to be eligible to move to the UK by applying for a five-year BN(O) visa (The Secretary of State for the Home

Department, 2020). However, between 16.3% and 54.2% of protesters in the Anti-Extradition Bill Movement were between the ages of 20 and 24 and born after 1997. These protesters do not meet the eligibility criteria for a BN(O) visa (Lee et al., 2019a).

Although the BN(O) policy came in response to the National Security Law, the BN(O) policy does not directly consider the majority demographic of politically persecuted Hong Kongers subject to the NSL (Yeung, 2021). The BN(O) process has a strict criminal record check and thus limits the protection of political victims most in need of asylum. Current regulations require applicants to provide a Certificate of No Criminal Conviction (CNCC) to be employed in jobs involving children and vulnerable adults (Home Office, 2022). However, Hong Kong authorities only release such documents in exceptional circumstances (Foreign and Commonwealth Office, 2022). Consequently, politically persecuted protesters who have emigrated to the UK regularly face problems finding employment.

The following options to address existing gaps in the BN(O) process are offered.

Soft Policy

Extend the eligibility for BN(O) applications for the next 5 years

This policy proposes to expand BN(O) eligibility to allow over-18 children of BN(O) citizens born after 1997 to immigrate to the UK on a BN(O) visa *for the next 5 years*, to cover the majority demographic of past protesters. Under this policy, young people who did not receive BN(O) status before 1997 but can prove that their parents hold BN(O) status would be eligible to apply for a BN(O) visa, until 2028.

Provide a special channel to political victims previously unable to apply for BN(O) status

At present, BN(O) visa applicants must prove that they “have no serious criminal convictions and have not otherwise engaged in behaviour ... not conducive to the public good” (Home Secretary, 2020). By the end of 2020, the number of Hong Kong people arrested due to participation in protests reached approximately 10,171 (Yeung, 2021). Current policy hinders their capacity to apply for a visa. This policy option provides a more politically sensitive immigration channel by practising discretion with Hong Kong

visa applicants convicted of political crimes (i.e., relating to the practice of freedom of assembly and expression). This considers the possibility that the PRC will restrict the rights of protesters in a pattern similar to the Anti-Extradition Bill Movement in the future. Potential applicants must submit detailed criminal records related to the protests and evidence of unfair persecution by the Hong Kong Government. Where the Home Office assesses that applicants have been unfairly persecuted due to political protest, it will grant BN(O) status and approve BN(O) status for their potential children, thus removing this barrier to visa applicant eligibility.

Hard Policy

Extend the timeframe for BN(O) applications until 2047

This policy proposes to expand BN(O) eligibility to allow children of BN(O) citizens born after 1997 to immigrate to the UK on a BN(O) visa *until 2047*. This aligns the UK's commitment with the agreed timeframe of Hong Kong's status under PRC rule, signalling to China that the UK maintains an assertive stance on its responsibilities under the SBJD. This distinguishes the policy from the soft option, which maintains this commitment only for the next 5 years. While this requires a significant allocation of resources to bolster immigration capacity within the Home Office and the Foreign, Commonwealth & Development Office (FCDO), it must be communicated that the UK should maintain its "active and activist posture" on the global stage under the priorities of the 2023 Integrated Review (HM Government, 2023, p. 4). This is most important with regards to the UK's Overseas Territories.

Help BN(O) applicants to obtain a clear criminal record and prove it to employers

Currently, BN(O) applications require proof of a clear criminal record. As CNCCs are often not released by Hong Kong authorities to prevent expatriation, background checks carried out by a Home Office Operational Intelligence Unit should be established to corroborate statements from prospective BN(O) applicants (Bolt, 2018). Moreover, a Disclosure and Barring Service (DBS) background check is required for manifold career paths in the UK, including the social and healthcare sectors, which are currently experiencing staff shortages (Thomson Reuters Foundation, 2022). Similar checks are also necessary to rent accommodation and open

bank accounts (BBC News, 2021b; Westbrook, 2022). In conjunction with intelligence investigations, a database containing the result of these criminal checks should be created. Citizens can generate a shareable code, accessible to their employer, landlord or bank clerk. This removes the need for a CNCC. The database would be modelled after the EU Settlement Scheme share-code system (see *Figures 1, 2, 3*). Should the applicant have been convicted of a crime in relation to the Hong Kong protests, and the applicant can prove this was the basis for their conviction, authorities can approve their entry and upload a clear criminal background outcome on their database.

Figure 1

What is the job applicant's share code?

Share code
For example, A1234567G

[I do not know the share code](#)

Figure 2

What do you need the share code for?

to prove my right to work (including work placements) in the UK

to prove my right to rent in the UK

something else

[Preview what the checker will see](#)

Figure 3

GOV.UK View and prove your immigration status

BETA This is a new service - your feedback will help us to improve it.

[Back](#)

Details you need to share

Share code
STH J

Text

This code is valid until 2 July 2023.

What to do next

- 1 Give this share code and your date of birth to the person you want to prove your status to.
- 2 To see your status, they must enter the share code and your date of birth at www.gov.uk/check-immigration-status.
- 3 Contact them to make sure they have all the information they need.

Beyond removing a barrier within the BN(O) immigration process, this policy assures highly educated BN(O) citizens that they will be able to resume their profession in the UK, thus defending the UK's reputation abroad as an attractive destination amongst skilled workers. As this leaves the government open to criticism for the prioritisation of Hong Kong citizens, it is imperative that the government communicate the possibility of extending it to other nationalities of provenance if it proves successful after 3 years.

To ensure the necessary capacity and resources to undertake these extensive administrative tasks, both policy options should be carried out with the cooperation of Home Office UK Visas and Immigration (UKVI) and the FCDO, with an additional £20 million budget supplement to address staff shortages. Funding would also be directed towards the Operational

Intelligence Unit, which will be tasked with investigating and reporting the criminal background of BN(O) applicants.

Risks

The immediate consequence of relaxing the age limit for BN(O) eligibility would be an immigration influx. The potentially great number of applicants, as mentioned, will require extra financial investment and collaboration with the Home Office (Heath, 2022). The influx of immigrants may exacerbate resistance to immigration amongst the public: according to the Migration Observatory, an average of 16% of immigrants in the UK in 2018 said they were discriminated against in the country because of their skin colour, nationality, religion, and language (Fernández-Reino, 2020). It must be communicated to the public that an increase in migration to the UK is being met with adequate investment to address ensuing challenges, as well as emphasising the need for the UK to maintain its presence and responsibility towards its Overseas Territories. Political opposition by the PRC and the Hong Kong government for interfering in the internal affairs of the HKSAR, and allowing protesters to find refuge in the UK, will be the greatest risk to UK Government action on this issue. However, as this policy does not directly affect the CCP's or Hong Kong's capacity within their state, the aforementioned policies reduce the chance of antagonisation.

Finance

Overview

A major obstacle to ensuring the safe passage of BN(O) holders to the UK is the financial burden of applying for a BN(O) visa, especially in light of the young cohort included in a potentially expanded BN(O) scheme (as outlined in the policies above), and the current policy of Hong Kong authorities to systematically prevent BN(O) holders from withdrawing money from compulsory Hong Kong savings accounts (All-Party Parliamentary Group on Hong Kong, 2023).

Recent regulations of the Hong Kong Mandatory Provident Fund Authority (MPFA), which manages the compulsory pension scheme of Hong Kong citizens, state that a BN(O) visa cannot be used as proof to withdraw funds from the scheme. Thus, the costs of a BN(O) visa and settlement in the UK are becoming unbearable for many BN(O) holders (Ibid.). This only

deepens the pre-existing financial obstacles for BN(O) holders to reach a secure economic foothold in the UK. The timing of the MPFA also suggests its purpose as a method to derail the BN(O) scheme and maintain a grip over the finances of Hong Kong citizens. This is therefore a serious provocation by the Hong Kong authorities that demands a response from the FCDO.

To bridge existing gaps in the BN(O) system and respond to efforts by the Hong Kong authorities to restrict the scheme, the FCDO could champion the following policies: a loan scheme to delay the payment of BN(O) application fees and the immigration health surcharge, a total fee waiver of the BN(O) applications fees and health surcharge, or the permission for BN(O) holders to pay domestic fees for UK universities.

Soft Policy

Loan scheme to delay the required payment of BN(O) application fees and the immigration health surcharge

As set out under BN(O) application guidance, applicants must pay a visa application fee and immigration health surcharge (GOV.UK, 2023). For a single adult over the age of 18, this could amount to £3,370. For a family of two adults and two children, the costs of a BN(O) application could reach £11,940 (Home Affairs Committee, 2021). This only exacerbates the other financial risks of immigrating to a foreign country and securing employment. Considering the recent measures by the Hong Kong MPFA to deny the right of BN(O) holders to withdraw pension funds, current BN(O) financial requirements seem too costly to allow eligible Hong Kong citizens to countenance the financial risk of immigration.

To support those eligible for a BN(O) visa and respond to MPFA regulations denying their ability to withdraw funds, the FCDO could support the establishment of a loan scheme for BN(O) applications. This would permit BN(O) applicants to delay the payment of application fees and the immigration health surcharge without placing too much strain on UK public finances. This credit could take the form of a means-tested low-interest rate loan, repayable in long-term instalments in line with the debtor's income. This would be a light-touch starting point to addressing some of the major financial barriers to a seamless BN(O) scheme, but nonetheless a policy that could function under strained short-term fiscal conditions.

Hard Policy

Total BN(O) fee waiver

The FCDO could advocate a total BN(O) fee waiver, including the application fee and healthcare surcharge, to decisively remove the financial stress of the BN(O) scheme on Hong Kong citizens. This would send a categorical message from the UK Government, but would also incur significant fiscal costs, especially if the eligibility to the BN(O) scheme is expanded.

Domestic university fees for BN(O) holders in the UK

The following policy recommendation is developed with a particular focus on young people aged 18-24 who are alienated from their families due to political opinions and would struggle to support a new life overseas (Walsh, 2020; Home Affairs Committee, 2021a). They are also, as outlined above, the predominant cohort engaged in protests against the new security measures in Hong Kong.

Hong Kong residents are still required to pay UK university tuition fees as ‘overseas’ students, which can amount to more than double those of Home fees. Allowing BN(O) citizens to be eligible for domestic tuition fees at UK universities would be a strong and positive step in affirming Britain’s commitment to Hong Kong. It would also introduce the possibility of a large, skilled workforce in Britain with a high proficiency in Cantonese and Mandarin that would aid Britain in its future relations (and competition) with the PRC.

Risks

The measures outlined above transfer financial burdens placed on eligible BN(O) holders, at least temporarily, to UK public finances. This could precipitate public blowback and further fiscal strain for HM Government. Any new measure in this domain may also invite a response from the PRC, which, considering the MPFA regulations, seems intent on keeping Hong Kong citizens and their financial capital in China. Finally, the granting of exceptions to Hong Kong citizens may lead to accusations of prioritising BN(O) holders over other at-risk groups to which the UK has commitments. As a result, effective communication is imperative to policy implementation – changes must be articulated in a language consistent with the public good.

Surveillance

Overview

Under the National Intelligence Law of 2017, the CCP can request and access data or establish party branches in private surveillance enterprises (Pearson, 2022). Moreover, data-theft can occur through intrusion and computer network exploitation (CNE) of surveillance systems in the UK. Several Chinese-owned surveillance companies such as Hikvision and Dahua provide CCTV software and hardware to UK policing and governmental buildings, as well as public spaces. Big Brother Watch found that over 60% of public organisations within the UK use Dahua and Hikvision's surveillance software (Big Brother Watch, 2022).

The CCP currently collects data on Hong Kong citizens within the UK through facial recognition software, to monitor anti-Hong Kong and CCP-related activities. On 17 October 2022, a pro-democracy protester was forced into the Chinese consulate in Manchester and reportedly beaten by staff due to his unsavoury portrayal of President Xi Jinping in recent protests (Lee & Maishman, 2022). It is understood that the consulate became aware via surveillance reports on Hikvision data (Ibid.).

The protection of UK-Hong Kong citizens is not adequately ensured through current UK cyber-defence capabilities regarding surveillance. The UK currently prohibits "sensitive sites" from using systems from specific companies Hikvision and Dahua (Summers, 2022). This is flawed on two counts. Firstly, "sensitive sites" refer only to UK Government buildings, disregarding highly frequented locations. Secondly, a blacklist approach leaves the UK vulnerable to companies not yet blacklisted but likely to emerge as alternatives. A November 2022 UK Government review advised that "in light of the threat to the UK and the increasing capability and connectivity of [surveillance] systems, additional controls are required" (Dowden, 2022). Effective anti-surveillance policies must address longer-term security threats. The following presents two policy options to ensure the protection of 'Article 8: The Right to Privacy' under the Human Rights Act 1998, for Hong Kong citizens within the UK.

Soft Policy

Extension of ban on Hikvision and Dahua to further locations across the UK

This option expands existing UK policy by extending the ban on Hikvision and Dahua to transport (railways, trains, buses), places of education (universities), Council-owned areas, policing institutions, and immigration facilities within airports. Through the lens of a human security approach, this aims to cover spaces frequented by Hong Kong immigrants to protect them from potential investigation and reprisal by Hong Kong authorities.

A monitoring system requiring documentation of an organisation's security provider when registering with Companies House should be implemented. Monitoring would be under the remit of the Companies House's Policy and Legal Team. Additionally, the subsidisation of UK-based companies will fund appropriate alternatives to Hikvision and Dahua. Companies in these outlined locations must replace their systems with alternative providers within a year, otherwise facing fines relative to company size. This would amount to approximately £20 million in subsidisation costs.

However, several risks are present: directly condemning Chinese-owned surveillance companies can antagonise China and tarnish relations. Maintaining a blacklist approach exposes the UK to new surveillance companies not currently listed. Additionally, a blacklist does not tackle non-Chinese surveillance companies using Chinese software, such as Honeywell – a US company using Huawei-developed software (Huawei, 2017).

Hard Policy

Creation of new criteria for the operation of surveillance companies in the UK

A more engaged policy addresses these drawbacks. Data access by the PRC occurs in two primary cases:

- Chinese businesses providing entire surveillance systems, subject to PRC intelligence laws.
- Chinese-developed software that can feature inherent backdoors vulnerable to PRC intrusion and CNE (Robertson & Riley, 2018). Although this concerns smaller-scale data transfer, it still presents a

significant security threat as it allows the tracking of specific targets from Hong Kong on UK soil.

New requirements for *all* surveillance companies employed in sensitive locations (those outlined in the previous section) should be established to eliminate this two-fold risk of intrusion by the PRC:

- Not be China-owned and subject to the Intelligence Law. This will appear antagonising to Chinese authorities, but the UK can argue a significant security interest (not just in the important protection of Hong Kong citizens in the UK, but also the enforcement of sovereignty in limiting foreign surveillance in sensitive or strategic spaces).
- Not use Chinese manufactured components containing software (chips and server systems). This excludes hardware such as lenses, plastic casing, wirings, and other mechanical components.
- Avoid offsite non-UK data storage. The prospective risk is data access by the PRC through the exploitation of data storage in pro-China countries, countries with lax regulation, or countries with low technical defences against Chinese CNE.

As in the soft policy option, subsidisation of UK-based surveillance companies (including software manufacturers and data-storage companies) is necessary to substitute for cheaper Chinese companies. The implementation costs would total £50 million.

Both policies require collaboration with the Imports Control Office, and within the Departments of Business and Trade and of International Trade. Strengthening anti-surveillance policy also has implications for defence diplomacy: by harming China's economic interests, the UK will gain leverage over human rights issues in Hong Kong in potential future negotiations. The UK can play a leading role in combating China's attempts to advance its "safe city model" based on surveillance technology (Boyajian & Cook, 2019). Further, it urges allies to address surveillance from China, as Australia, Canada and New Zealand are the largest importers of China's surveillance products (Feldstein, 2019). A stronger stance can assert the UK's "more active ... posture" emphasised in the 2023 Integrated Review (HM Government, 2023, p. 2).

Risks

Significant opposition by China in any policy that affects Chinese business can be anticipated. Additionally, by mandating the use of non-Chinese-developed software, businesses and supply chains may be disrupted. However, the UK must maximise this opportunity to combat Chinese personal data-theft.

Moreover, both policies require enshrinement into law, as many of the suggested locations are private-owned, or even part-owned by Chinese companies (such as Manchester and Heathrow Airport) (HM Treasury, 2013). Although the UK public may resist the financial commitments of subsidisation due to current economic difficulties, it is urgent for the UK to expand its surveillance industry, protect its sovereignty and the privacy of its residents, and work towards the vision of Global Britain by limiting its dependence on Chinese services.

Conclusions and Recommendations

Considering the associated risks of the hard and soft policies that have been outlined, a hard BN(O) policy that extends eligibility for BN(O) status to children of BN(O) holders born after 1997 until 2047 should be adopted, alongside UK intelligence checks to ascertain the criminal status of visa applicants. To counter recent measures of the Hong Kong Pension Fund Authority to deny the use of a BN(O) visa as proof to withdraw savings, a soft finance policy that provides a loan to cover BN(O) application costs is recommended. While a harder policy may be adopted in the future, this approach to finance is tailored to current stresses on UK public finance. In regard to surveillance, a hard policy outlining new criteria for surveillance companies in sensitive UK locations is advised. While this combination is unlikely to yield a breakthrough in UK-Chinese relations or UK-Hong Kong Authority relations, it reduces the risk of antagonising China, employs inducement strategies for China to change its intransigent behaviour in Hong Kong, and bolsters defence capabilities to deal with the long-term Chinese threat. These modifications prove vital as it is imperative to sustain the UK's position as an active power on the global stage.

At the same time, it is imperative that *any* policy adopted by the FCDO consider long-term UK-China relations. The UK must signal that threats to its overseas territories posed by China's continued intransigence will incur

costs that outweigh any gains. To achieve this, it is essential that the UK demonstrate credibility in its commitment to protecting Hong Kong citizens.

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制定可靠路線 重新確立英國對香港人的承諾

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摘要

為確認英國於印度—太平洋（下稱「印太」）地區事務的參與並履行其對英國海外領土的義務，英國政府的首要目標必定是增強對最近受香港政治變化影響的香港公民的承諾。中華人民共和國（下稱「中國」）對香港司法獨立的逐步侵犯，以及香港當局隨後實施的制裁鎮壓，所反映的是對 1984 年簽訂的《中英聯合聲明》及其根基「一國兩制」原則的故意違反。英國對中國共產黨（下稱「中共」）侵略的消極反應將挑起對國際規則的進一步挑戰，同時損害英國在印太地區的信譽，並拉開英國與其海外領土之間的距離。

有鑒於保護在港英國海外國民為英國政府首要目標，本報告會先分析引致香港社會動蕩的因素，再提出經修訂後的英國國民（海外）簽證（下稱「BN(O)」）方案。雖然目前的 BN(O) 政策值得讚揚，但該計劃應該得到加強，以消除申請簽證時的障礙，並保護香港抗議者中大部分沒有資格參加 BN(O) 計劃的一群。此報告亦概述為 BN(O) 持有人抵達英國後提供經濟援助的選擇，並討論在英國的 BN(O) 持有人容易受到中共監控的可能。這暴露英國的國家基礎設施更容易受到中共監控的脆弱性。這些政策將保護英國公民、BN(O) 持有者，以及英國國家安全，亦會向中共發出信號，表明英國將堅定捍衛其國家主權。此報告建議修訂並制定一個更具參與性的 BN(O) 簽證計畫、經濟援助政策和更嚴格的反監視政策。

關鍵字

英國；中國；香港；英國國民（海外）；英國外交政策；中英聯合聲明
