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THE CURRENT: How is China's new national security law affecting Hong Kong?

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PITA: You're listening to The Current, part of the Brookings Podcast Network. I'm your host, Adrianna Pita.

Last week, the White House announced it would end Hong Kong's preferential trade status with the United States, as well as impose targeted sanctions on some Chinese officials. This came in response to a new national security law that gives Beijing far-reaching powers over the special administrative region long used to a greater degree of autonomy than other Chinese cities.

With us to talk about what's happening in Hong Kong is Jamie Horsley, a visiting fellow with the John L. Thornton China Center here at Brookings. Jamie, thanks for talking to us today.

HORSLEY: Thank you, Adrianna

PITA: Before we get to what this executive order from the Trump administration means for Hong Kong, let's take a step back and start with what this national security law is and what it does. It was enacted on July 1, which is the anniversary of the handover of HK from the UK to China, which seems like a statement in and of itself. What should we know about it?

HORSLEY: So, when Hong Kong was handed over to the People's Republic of China, it was pursuant to a Sino-British declaration that agreed on some terms for ensuring that Hong Kong would continue to enjoy a high degree of autonomy for 50 years. And that meant it would retain its own common law system, its independent courts, its capitalist-based economic system, etc. At the same time, China passed a something called the Basic Law, Hong Kong's mini-constitution, which sort of set out the division of labor between the center and Hong Kong in terms of what affairs they would handle. Beijing retain national defense and foreign affairs sovereignty. Hong Kong retained autonomy over its sort of internal day-to-day operations, but also was instructed in that law to enact national security legislation. It has failed to do this over the years for variety of reasons: a lot of missed opportunities, mutual mistrust, etc., and given the recent protests in Hong Kong and most particularly last year -- we saw a great deal of unrest over a proposed extradition treaty, which shut down the airport for a couple days, you know, brought a lot of business to a halt, resulted in violence and property destruction, etc. -- Beijing felt that there were foreign or "black hands" behind the unrest and most specifically the United States. And they also saw these actions is incredibly destabilizing, not just for Hong Kong and its reputation as a stable international financial center, but also as a threat to Beijing, which takes a very comprehensive view of its national security.

So, a lot of observers and people in Hong Kong sort of knew that Beijing might want to take some action to fill in what they saw as this gap in national security. But they didn't expect them to move so suddenly and so quickly as they did when in May they announced last minute at the annual meeting of the National People's Congress that they were adopting a decision to authorize the passage of a national security law for Hong Kong. That process then accelerated over the next month of June in secret. Very few people even ever saw the text before it was passed; no opportunity for widespread public participation. And then in fact it was passed, and took effect in the evening, 11 p.m., just before midnight of June 30, and went into immediate effect that night so that it was then implemented the following day, July 1 during the 23rd anniversary of the handover.

The law itself is much, much, much more draconian than people have thought, in addition to defining very vaguely some so-called national security crimes and extending them extra-territorially to almost anyone on the planet. What is most concerning is this law established some new institutions subject to direct control from the central government in Beijing within Hong Kong, both within the government and then a whole new party state-run institution called the Office for Safeguarding National Security, which is being run by someone viewed as sort of a hardliner from Guangdong province to head that. That office has a lot of wide-ranging authorities; it can conduct investigations, detain people, take property, define what will constitute a national security crime, etc, etc. And it's given particular remit to oversee and deal with the offices of foreign countries and international institutions in Hong Kong, as well as foreign NGOs and media that are based in Hong Kong as well.

So, this has created a great deal of concern both within Hong Kong and within the international community, because the so-called high degree of autonomy that Hong Kong has enjoyed for years seems to be under threat now.

PITA: Thanks. How have we seen it be implemented in Hong Kong yet? What sort of immediate effects have happened?

HORSLEY: Well, the most immediate thing that happened was, of course, it took effect, you know, before midnight on June 30, so on July 1 which was the anniversary, the Hong Kong government had already banned any protests that day, which normally are held every year regularly on that day and they used COVID-19 as the excuse for not holding protests, but everybody knew there were going to be protests, which there were. At least 10 people were arrested pursuant to that law, whereas hundreds of others were detained under other Hong Kong laws as well. So that was very immediate.

Now remember, Hong Kong people at this point had not even had a chance to read the law because it had come into effect and only been published the night before. But it's also then had a great chilling effect generally. So, you could say a lot of people are sort of self-censoring or taking prophylactic actions themselves. So, for example, some political organizations have been disbanded. Some activists have resigned. Some have even fled the territory. Libraries are calling for potentially sensitive books or putting them under review. You've seen a continuation of certain repressive trends that have been in place, for example, not renewing teaching appointments for people who've taken part in protests last year, etc. Beijing has also claimed that some primaries that were held over the weekend by the so-called democratic parties to nominate candidates for a legislative council election that's scheduled to be held September 6, they held that they were illegal and might have violated the national security law. But interestingly, the young man Joshua Wong, who has a 17-year-old sort of lead the Umbrella Movement, has already declared that he is going to stand for office, even though he has been barred from running for offices in the past.

In terms of international reaction, the New York Times had some reporters who were expelled from China. Some of them are seeking to then relocate to Hong Kong to report on China from Hong Kong. One of the most well-known, Chris Buckley, was denied a work visa for Hong Kong. So, the New York Times is moving, you know, a portion of their staff over to Seoul out of Hong Kong. So, the media environment is clearly on edge at this point. U.S. technology firms are rethinking their position in Hong Kong, some already taking actions to sort of migrate their data storage out of Hong Kong, especially as China is currently, as we speak, deliberating a new data security law. Some representatives from Taiwan were unable to renew their work visas in the territory because they refuse to sign a document supporting the one China principle. Even though this policy had been in effect before. So, you have a whole variety of actions along a variety of fronts. The business community is watching and sort of waiting at this point. The American Chamber of Commerce, for example, did a survey and while many, many businesses, over 75%, are concerned, I think around 67% said that they were going to stay and see how this law is actually implemented. The last major thing, I guess, is that a lot of residents are looking at immigration opportunities and we've seen in terms of international reaction, Britain has already offered the possibility of visas that would provide a pathway to permanent residency in Britain for up to 3 million people. Australia has done something similar. The U.S. is working on its visa policies, etc. But we did see a similar immigration push after the handover itself. A lot of people, a lot of Hong Kong residents moved to Canada, the UK, Australia, some to the US. But we saw in the years because of the rather successful implementation of the so called one country, two systems maintaining a great deal of autonomy in Hong Kong, that many of those moved back. So, we'll have to see again what the immigration impact will be from all of this.

PITA: Now, getting to the executive order from the White House, ending the special trade status, what will that mean for Hong Kong?

HORSLEY: Well, this is only one in a series of actions the U.S. Congress has taken in the years. Just before the handover we passed something called the Hong Kong Policy Act, where the U.S. decided and agreed to continue to treat Hong Kong as the separate administrative region for trade, investment, customs and other purposes and gave Hong Kong a lot of special treatment that is not accorded to mainland China. So those are the kinds of privileges that are now under review.

We had already passed something - Congress had passed something last fall in the wake of these protests that I described already, imposing sanctions on people who could be deemed to be responsible for gross human rights violations in Hong Kong and imposing a lot of required reporting and paying attention to the situation in Hong Kong. And then more recently, at the same time that President Trump signed the executive order on Hong Kong, he signed a law Congress called the Hong Kong Autonomy Act, which also requires sanctions against both individuals and banks who will be deemed to contribute to the erosion of Hong Kong's autonomy. The EO itself basically would strip the special autonomous region of all of its special privileges. And even more. I mean, one of the concerning things is, it's even going to abolish the Fulbright program for both China and Hong Kong, which has been in place to enable very beneficial exchanges between Chinese, Hong Kong, and U.S. institutions and people.

So what does this mean for Hong Kong? You know, some aspects of the community welcome these actions by Congress to sort of display to China and hopefully get some leverage over China in terms of how it was going to treat Hong Kong that obviously failed. Beijing went ahead for its own reasons and did what it did. And so now there's a great concern that actually all of these actions

stripping away all of these privileges is in fact going to turn Hong Kong into just another Chinese city and erode its special status, even though Beijing has promised that the national security law will only be applied in limited circumstances to a few people and that Hong Kong will continue to enjoy a high degree of autonomy., that one country, two systems still exists. But there is great concern that this action, in fact, is sort of the death knell: not only Beijing's action for Hong Kong's autonomy, but that the U.S. is actually going to then accelerate that process of losing the autonomy.

PITA: That is the big question about whether this is foreshadowing the end of the one country, two systems. What are you expecting to see in the, you know, maybe short to medium near term, either in terms of reaction from the public in Hong Kong or further steps from the mainland?

HORSLEY: Well, the first thing, of course, is that we've seen Beijing take retaliatory responsive steps to actions from the U.S. to impose sanctions. They have sanctioned as you know some of our senators and officials, and so we can expect they're going to be taking additional steps. They've been fairly measured in terms of responding to the U.S. action and it's hard to know what they might do in response to both the executive order and the recent congressional law as well.

I would like to see personally that we would take a more targeted approach. The laws and the EO I believe have some flexibility in terms of how they're actually carried out and when. And I would argue that the U.S. ought to step back, as our Brookings colleague Ryan Hass has recommended, to clearly define what is the U.S. interest in Hong Kong at this point, and what is the U.S. interest in our relationship with China, and possibly target the most concerning elements, but not throw the baby out with the bathwater. So, for example, you know, with Beijing taking a much more active role in Hong Kong now, I think it is clear, we need to be more concerned about things like technology transfer, particularly dual-use technology. So, there are some aspects that should be changed, some privileges that probably should be suspended or revoked, but others that I would argue, we should maintain for a while and see what happens. Internationally, countries are taking different approaches, too and while many have taken an initial step of revoking or suspending extradition treaties, for example, as Australia and I think the UK have done -- or Canada, the UK is considering it -- but have not decided to change their trade agreements, etc. yet, at this point, and kind of see how things play out.

I think our leverage with Beijing on this issue is not very great. Clearly it's something Beijing felt very strongly about and felt that the international threats and concern about what they were proposing to do in Hong Kong were not as important as, from their point of view, ensuring this national security and stability of Hong Kong moving forward. So, I would hope, both from our own interests and from Hong Kong's interests that we might take a little more measured approach to implementing now this whole range of actions that is on the table and that we can use.

PITA: All right, Jamie. Thanks very much for joining us and explaining this today.

HORSLEY: Thank you very much.