

# HUMAN RIGHTS SITUATION IN HONG KONG:

## HONG KONG WATCH BRIEFING ON EVENTS: NOVEMBER 2021

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### EXECUTIVE SUMMARY

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#### POLITICAL PRISONERS: ARRESTS, CHARGES, & TRIALS

In November 2021, Beijing continued its crackdown on the pro-democracy movement in Hong Kong, with:

- Tony Chung becoming the youngest person to be jailed under the National Security Law at the age of just twenty years old. Tony Chung received three years and seven months in jail after pleading guilty to charges of “secession” and “money-laundering” under the law.
- The Hong Kong pro-democracy activist and former owner of Apple Daily newspaper, Jimmy Lai, alongside activists Gwyneth Ho and Chow Hang Tung, being convicted for taking part in the annual vigil in 2020 to mark the Tiananmen Square Massacre.
- The Hong Kong Police issued arrest warrants for two exiled pro-democracy politicians for allegedly advocating for Hong Kongers to boycott or cast blank votes in the upcoming Legislative Council elections.
- The Hong Kong Police arrested three more individuals on suspicion of encouraging Hong Kongers to boycott or cast blank ballots in the upcoming Legislative Council elections.

#### A SLEDGE HAMMER TO CIVIL SOCIETY & EDUCATION

- According to research published by the Hong Kong Free Press, over 50 civil society groups have been forced to disband in Hong Kong since the National Security Law was introduced in July 2020.
- Mr Thomas Gnocchi, who leads the European Union Office to Hong Kong and Macau, has warned that the National Security Law is having a chilling effect on the ability of the consulate to engage with civil society groups, with academics and civil society activists unwilling to meet with EU officials.
- Hong Kong secondary schools are facing a brain drain as a result of Hong Kongers moving abroad in response to the National Security Law. According to a survey by

headteachers, secondary schools in Hong Kong have lost over 4,500 pupils and 1,000 teachers in the last academic year.

#### THE STATE OF THE RULE OF LAW

- On 30 November 2021, it was reported that Paul Harris, the Chairman of the Hong Kong Bar Association, had been removed from the activist Adam Ma's legal team weeks before he faced trial at the Hong Kong District Court on charges of inciting secession.
- The removal of the Chairman of the Hong Kong Bar Association comes at a time when the Hong Kong Government has committed to reviewing Hong Kong's legal aid system, in an attempt to stop pro-democracy activists being able to select their own lawyers. The Hong Kong Bar Association has warned that these reforms could breach the Basic Law.

#### A FREE PRESS & FREE INTERNET IN THE CROSSHAIRS

- Hong Kong's Chief Secretary, John Lee, has announced that the Hong Kong Government is undertaking a study of so called "fake news", which includes looking at the possibility of legislation and management aimed at targeting the press.
- Hong Kong's Chief Executive, Carrie Lam, has promised to "proactively plug loopholes" in the city's internet regulation to target so called "fake news" and disinformation.
- Hong Kong's Constitutional Minister, Erick Tsang, has warned the Wall Street Journal that it may have committed a criminal offence by publishing an opinion article, which included references encouraging Hong Kongers to boycott or cast ballots in the upcoming Legislative Council elections.
- Following a report by StandNews regarding Castle Peak Bay Immigration Centre and the conduct of the Hong Kong Police, Hong Kong's Security Minister, Chris Tang, has criticised the news publication and warned authorities will relentlessly search for evidence and go after anyone who threatens national security "in disguise of the media".

#### LEGISLATIVE COUNCIL ELECTIONS

- Simon Peh, Commissioner of the Independent Commission Against Corruption, has warned that public opinion polls that ask Hong Kongers about their intention to vote in the upcoming Legislative Council elections could be illegal. This warning comes as a recent opinion poll found that just under half of Hong Kongers expressed an interest in voting in the Legislative Council elections, which will take place under new rules written by Beijing.
- According to the news publication Ming Pao, one third of the 153 candidates in the upcoming Legislative Council elections have left no contact details on their nomination forms, making it difficult for the public or press to contact them.

- Hong Kong's Chief Executive, Carrie Lam, has told the media that the expected low turnout in the upcoming Legislative Council elections could prove the credibility of the Government and reflect strong public satisfaction with its performance.

#### STATE SECURITY & THE ECONOMY

- The Chinese Government has announced that companies currently listed in the USA using variable interest entities will be forced to delist and relist in Hong Kong as part of its ongoing crackdown on technology companies. The ban on allowing Chinese companies going public on foreign stock markets through variable interest entities is designed to address growing concerns over data security.
- Following the announcement, Didi Chuxing, China's leading ride-hailing company, announced that it intends to delist its shares from the New York Stock Exchange and plans to relist on the Hong Kong Stock Exchange, allowing investors who bought shares on the NYSE to swap them for shares if and when there is a Hong Kong listing.
- On 9 December 2021, the USA Government announced it would be placing the Chinese facial recognition software company SenseTime on its blacklist, following reports of the company's involvement in the construction of camps in Xinjiang. The announced ban came on the same day that SenseTime announced its intention to price its initial public offering on the Hong Kong stock exchange.

#### OTHER DEVELOPMENTS

- The UK Government briefed the Times newspaper on 6 December 2021 that it was considering expanding the UK BNO Visa scheme to help Hong Kongers under twenty-five who cannot currently access the scheme. This follows the introduction of a cross-party amendment led by Damian Green MP to the Nationality and Borders Bill, which would expand the BNO Visa Scheme for Hong Kongers who have one BNO parent.
- According to UK Government statistics, since January 2021 nearly 90,000 Hong Kongers have applied for the UK BNO Visa Scheme to work and settle in the UK.
- The UK Government has confirmed that it has raised its concerns with the Hong Kong Government regarding its decision to restrict BNOs from withdrawing their MPF pensions early.
- The Australian Parliament has passed legislation creating its own Magnitsky sanctions regime, which will allow Australia to join the UK, USA, Canada, and EU, in introducing targeted sanctions against officials guilty of gross human rights violations.
- The US advisory group, Consumers' Research, has warned about the growing ties between BlackRock and China, and called on states invested in BlackRock to examine risks associated with investing in China.

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## **POLITICAL PRISONERS: ARRESTS, CHARGES, & TRIALS**

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### **Tony Chung becomes the youngest person to be sentenced under the National Security Law**

On 23 November 2021, Tony Chung, became the youngest person to be jailed under the National Security Law at the age of just twenty years old. Tony Chung received three years and seven months in jail after pleading guilty to charges of “secession” and “money-laundering” under the law.

The former student activist was arrested in October 2020 outside the US Consulate in Hong Kong was in the process of attempting to seek asylum. Tony Chung’s charges relate to a series of social media posts and the financial management of his student localist group.

On 3 November 2021, Tony Chung pled guilty to national security charges of “secession” and “money-laundering” as part of a plea deal, which ensured he would not face sentences for further charges relating to “publishing seditious materials” and another count of “money-laundering”.<sup>1</sup>

### **Jimmy Lai and two pro-democracy activists convicted for attending annual Tiananmen Square Vigil**

The Hong Kong pro-democracy activist and former owner of Apple Daily newspaper, Jimmy Lai, alongside activists Gwyneth Ho and Chow Hang Tung on 9 December 2021 was convicted for taking part in the annual vigil in 2020 to mark the Tiananmen Square Massacre.

The three activists were convicted for inciting and taking part in an unlawful assembly, after the Hong Kong Government banned the Tiananmen Square vigil from taking place for the first time in 30 years. The ban followed the introduction of the draconian National Security Law, which has been used to target pro-democracy activists, journalists, academic freedom, and stop peaceful assemblies in the city.<sup>2</sup>

### **Hong Kong Police issue arrest warrants for exiled pro-democracy politicians advocating a boycott of upcoming elections**

On 29 November 2021, the Hong Kong Police issued arrest warrants for two exiled pro-democracy politicians for allegedly advocating for Hong Kongers to boycott or cast blank votes in the upcoming Legislative Council elections.

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<sup>1</sup> <https://www.hongkongwatch.org/all-posts/2021/11/23/at-twenty-years-old-tony-chung-is-the-youngest-person-to-be-sentenced-under-this-draconian-law-he-will-not-be-the-last>

<sup>2</sup> <https://www.hongkongwatch.org/all-posts/2021/12/9/these-convictions-make-a-mockery-of-claims-that-the-hong-kong-government-continues-to-uphold-the-basic-law>

Former pro-democracy lawmaker Ted Hui and ex-district councillor Yau Man-chun face charges from the city's anti-corruption watchdog, the Independent Commission Against Corruption, after they shared social media posts advocating Hong Kongers boycott or cast blank ballots in the upcoming elections.<sup>3</sup>

### **National security trial of 47 pro-democracy activists and lawmakers adjourns until February 2022**

Hong Kong's Department of Justice on 14 November 2021 asked for an adjournment of the National Security trial hearing of the 47 pro-democracy activists to February 2022. It means that 33 of the 47 will remain in pre-trial detention.<sup>4</sup>

### **Hong Kong Police arrest three more people on suspicion of encouraging Hong Kongers to boycott the Legislative Council elections**

On 10 December 2021, the Hong Kong Police arrested three more individuals on suspicion of encouraging Hong Kongers to boycott or cast blank ballots in the upcoming Legislative Council elections, which will take place under new rules written by Beijing.<sup>5</sup>

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## **A SLEDGE HAMMER TO CIVIL SOCIETY & EDUCATION**

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### **Over 50 civil society groups have been forced to disband since the National Security Law was introduced**

According to research published by the Hong Kong Free Press, over 50 civil society groups have been forced to disband in Hong Kong since the National Security Law was introduced in July 2020.<sup>6</sup>

These groups include, Amnesty International, Human Rights Watch, NGOs, thinktanks, trade unions, student unions, civil society groups responsible for coordinating peaceful assemblies, legal funds organised to help cover the cost of protestors legal fees, and the organiser of the annual vigil for the Tiananmen Square Massacre.

### **EU Consulate in Hong Kong warns of a chilling effect on civil society groups**

Mr Thomas Gnocchi, who leads the European Union Office to Hong Kong and Macau, has warned that the National Security Law is having a chilling effect on the ability of the

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<sup>3</sup> <https://hongkongfp.com/2021/11/29/hong-kong-issues-arrest-warrants-for-two-self-exiled-ex-politicians-after-they-urged-election-protest-votes-boycott/>

<sup>4</sup> <https://twitter.com/laiyanhoeric/status/1459785988121759751?s=20>

<sup>5</sup> <https://hongkongfp.com/2021/12/10/hong-kong-anti-graft-body-arrests-3-more-on-suspicion-of-inciting-election-boycott-or-blank-votes/>

<sup>6</sup> <https://hongkongfp.com/2021/11/28/explainer-over-50-groups-gone-in-11-months-how-hong-kongs-pro-democracy-forces-crumbled/>

consulate to engage with civil society groups, with academics and civil society activists unwilling to meet with EU officials.<sup>7</sup>

### **Hong Kong secondary schools lose 4,500 pupils and 1,000 teachers in one academic year**

Hong Kong secondary schools are facing a brain drain as a result of Hong Kongers moving abroad in response to the National Security Law. According to a survey by headteachers, secondary schools in Hong Kong have lost over 4,500 pupils and 1,000 teachers in the last academic year.

Some sixty percent of the students withdrawn from school in 2020-21 were leaving Hong Kong, while the number of emigrating teachers rose seven-fold over the previous year, according to the survey by the Hong Kong Association of the Heads of Secondary Schools and the Hong Kong Centre for International Student Assessment at CUHK.<sup>8</sup>

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## **THE STATE OF THE RULE OF LAW**

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### **Hong Kong Bar Association Chairman removed from national security trial**

On 30 November 2021, it was reported that Paul Harris, the Chairman of the Hong Kong Bar Association, had been removed from the activist Adam Ma's legal team weeks before he faced trial at the Hong Kong District Court on charges of inciting secession.<sup>9</sup>

According to the report, Hong Kong's Legal Aid Department removed Paul Harris because appeal judges had criticised the barrister in a separate judicial review case concerning a pro-democracy protester with an injured eye trying to stop police accessing her medical records.

The removal of the Chairman of the Hong Kong Bar Association comes at a time when the Hong Kong Government has committed to reviewing Hong Kong's legal aid system, in an attempt to stop pro-democracy activists being able to select their own lawyers. The Hong Kong Bar Association has warned that these reforms could breach the Basic Law.<sup>10 11</sup>

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<sup>7</sup> <https://www.scmp.com/news/hong-kong/politics/article/3159113/rights-groups-academics-shunning-contact-eu-officials-hong>

<sup>8</sup> <https://hongkongfp.com/2021/12/03/brain-drain-fears-as-hong-kong-secondary-schools-lose-4500-pupils-and-1000-students-in-one-academic-year-survey/>

<sup>9</sup> [https://www.scmp.com/news/hong-kong/politics/article/3157921/hong-kong-bar-chief-paul-harris-removed-national-security?utm\\_content=article&utm\\_medium=Social&utm\\_source=Twitter#Echobox=1638277130-1](https://www.scmp.com/news/hong-kong/politics/article/3157921/hong-kong-bar-chief-paul-harris-removed-national-security?utm_content=article&utm_medium=Social&utm_source=Twitter#Echobox=1638277130-1)

<sup>10</sup> <https://www.reuters.com/world/china/hong-kongs-planned-legal-aid-changes-could-breach-constitution-bar-association-2021-12-08/>

<sup>11</sup> <https://www.scmp.com/news/hong-kong/politics/article/3153778/overhaul-hong-kongs-legal-aid-system-could-be-implemented>

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## A FREE PRESS & FREE INTERNET IN THE CROSSHAIRS

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### **Hong Kong Government announces a study of so called “fake news”**

Hong Kong’s Chief Secretary, John Lee, has announced that the Hong Kong Government is undertaking a study of so called “fake news”, which includes looking at the possibility of legislation and management aimed at targeting the press.<sup>12</sup>

### **Carrie Lam promises to plug loopholes in internet regulations to stop so called “fake news” and disinformation**

Hong Kong’s Chief Executive, Carrie Lam, has promised to “proactively plug loopholes” in the city’s internet regulation to target so called “fake news” and disinformation, in a move which pro-democracy activists have warned is likely to dismantle further the free internet and extend China’s Great Firewall to Hong Kong.<sup>13</sup>

### **Visitors to pro-democracy websites report being targeted by hackers who have attempted to install malware on Apple phone devices**

Wired magazine has reported that visitors to pro-democracy websites in Hong Kong have been targeted by hackers who have attempted to install malware on Apple phone devices, taking advantage of flaws in the operating system.<sup>14</sup>

### **Hong Kong’s Constitutional Minister threatens the Wall Street Journal**

Hong Kong’s Constitutional Minister, Erick Tsang, has warned the Wall Street Journal that it may have committed a criminal offence by publishing an opinion article, which included references encouraging Hong Kongers to boycott or cast ballots in the upcoming Legislative Council elections.<sup>15</sup>

### **Hong Kong’s Security Minister attacks StandNews**

Following a report by StandNews regarding Castle Peak Bay Immigration Centre and the conduct of the Hong Kong Police, Hong Kong’s Security Minister, Chris Tang, has criticised the news publication and warned authorities will relentlessly search for evidence and go after anyone who threatens national security “in disguise of the media”.<sup>16</sup>

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<sup>12</sup> <https://hongkongfp.com/2021/11/18/hong-kong-govt-conducting-legal-study-on-fake-news-says-chief-sec-john-lee/>

<sup>13</sup> <https://hongkongfp.com/2021/11/25/hong-kongs-carrie-lam-vows-to-plug-loopholes-in-internet-regulation-and-supervise-and-manage-the-media/>

<sup>14</sup> <https://www.wired.com/story/ios-macos-hacks-hong-kong-watering-hole/>

<sup>15</sup> <https://twitter.com/krislc/status/1467673854688563202?s=20>

<sup>16</sup> <https://twitter.com/alvinllum/status/1466700215797256192?s=20>

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## LEGISLATIVE COUNCIL ELECTIONS

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### **Hong Kong Government warns public opinion polls on upcoming Legislative Council elections could break the law**

Simon Peh, Commissioner of the Independent Commission Against Corruption, has warned that public opinion polls that ask Hong Kongers about their intention to vote in the upcoming Legislative Council elections could be illegal.<sup>17</sup>

This warning comes as a recent opinion poll found that just under half of Hong Kongers expressed an interest in voting in the Legislative Council elections, which will take place under new rules written by Beijing.<sup>18</sup>

Another poll has also found that over fifty percent of Hong Kongers oppose plans by the Chinese Government to allow residents in mainland China to vote in the upcoming Legislative Council elections.<sup>19</sup>

### **A third of Legislative Council candidates refuse to leave contact information for the public or press to get in contact**

According to the news publication Ming Pao, one third of the 153 candidates in the upcoming Legislative Council elections have left no contact details on their nomination forms, making it difficult for the public or press to contact them.<sup>20</sup>

### **Carrie Lam claims a low turnout in the Legislative Council elections could mean strong public satisfaction with the Government**

Hong Kong's Chief Executive, Carrie Lam, has told the media that the expected low turnout in the upcoming Legislative Council elections could prove the credibility of the Government and reflect strong public satisfaction with its performance.<sup>21</sup>

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<sup>17</sup> <https://hongkongfp.com/2021/11/30/some-opinion-survey-questions-could-breach-hong-kong-law-anti-graft-chief-warns/>

<sup>18</sup> <https://hongkongfp.com/2021/11/24/poll-finds-only-half-of-hongkongers-inclined-to-vote-in-upcoming-legislative-race-a-record-low/>

<sup>19</sup> <https://hongkongfp.com/2021/12/04/half-of-hongkongers-oppose-plan-for-residents-in-mainland-china-to-vote-in-elections-poll-finds/>

<sup>20</sup> <https://hongkongfp.com/2021/11/23/a-third-of-candidates-in-hong-kong-legislative-race-did-not-leave-contact-info-for-public-press-report/>

<sup>21</sup> <https://hongkongfp.com/2021/12/09/it-does-not-mean-anything-hong-kongs-carrie-lam-says-low-election-turnout-may-mean-govt-is-credible-and-doing-well/>



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## **Hong Kong Government offers free MTR, tram, and bus travel for Legislative Council elections**

In a move designed to bolster turnout, the Hong Kong Government is offering Hong Kongers free travel on public transport on the day of the Legislative Council elections on 19 December 2021.<sup>22</sup>

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## **STATE SECURITY & THE ECONOMY**

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### **China's technology crackdown forces Chinese companies to delist from the USA and relist in Hong Kong**

The Chinese Government has announced that companies currently listed in the USA using variable interest entities will be forced to delist and relist in Hong Kong as part of its ongoing crackdown on technology companies.<sup>23</sup> The ban on allowing Chinese companies going public on foreign stock markets through variable interest entities is designed to address growing concerns over data security.

Following the announcement, Didi Chuxing, China's leading ride-hailing company, announced that it intends to delist its shares from the New York Stock Exchange and plans to relist on the Hong Kong Stock Exchange, allowing investors who bought shares on the NYSE to swap them for shares if and when there is a Hong Kong listing.<sup>24</sup>

### **USA blacklists Chinese facial recognition software company SenseTime ahead of Hong Kong IPO**

On 9 December 2021, the USA Government announced it would be placing the Chinese facial recognition software company SenseTime on its blacklist, following reports of the company's involvement in the construction of camps in Xinjiang.

The announced ban comes on the same day that SenseTime announced its intention to price its initial public offering on the Hong Kong stock exchange.<sup>25</sup>

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<sup>22</sup> <https://hongkongfp.com/2021/12/10/free-mtr-tram-and-bus-travel-during-patriots-only-election-as-officials-urge-hongkongers-to-vote/>

<sup>23</sup> <https://www.bloomberg.com/news/articles/2021-12-01/china-plans-to-ban-loophole-used-by-tech-firms-for-foreign-ipos>

<sup>24</sup> <https://www.wsj.com/articles/hong-kong-listing-means-trouble-for-didi-chuxing-hkex-nyse-xi-national-security-emerging-markets-11638988934>

<sup>25</sup> <https://www.ft.com/content/8ee73509-e364-494e-b4c8-ff9a4f675078?shareType=nongift>

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## OTHER DEVELOPMENTS

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### **UK Government floats the possibility of extending the UK BNO Visa to under 25s**

The UK Government briefed the Times newspaper on 6 December 2021 that it was considering expanding the UK BNO Visa scheme to help those Hong Kongers under twenty-five who cannot currently access the scheme.<sup>26</sup>

This follows the introduction of a cross-party amendment led by Damian Green MP to the Nationality and Borders Bill, which would expand the BNO Visa Scheme for Hong Kongers who have one BNO parent.<sup>27</sup>

On 21 November 2021, a number of prominent pro-democracy activists in exile wrote to the UK Home Secretary, Priti Patel MP, urging her to consider ways to help young Hong Kongers currently excluded from the scheme.<sup>28</sup>

### **90,000 Hong Kongers apply for UK BNO Visa Scheme**

According to UK Government statistics, since January 2021 nearly 90,000 Hong Kongers have applied for the UK BNO Visa Scheme to work and settle in the UK.<sup>29</sup>

This breaks down as nearly 90,000 applications over the three quarters of the year, with an expectation that the last quarter's figures when published will show that over 100,000 Hong Kongers have applied for the scheme in 2021.

### **UK Government raises MPF scheme with Hong Kong officials**

The UK Government has confirmed that it has raised its concerns with the Hong Kong Government regarding its decision to restrict BNOs from withdrawing their MPF pensions early.<sup>30</sup>

### **Australian Parliament passes Magnitsky sanctions legislation**

The Australian Parliament has passed legislation creating its own Magnitsky sanctions regime, which will allow Australia to join the UK, USA, Canada, and EU, in introducing targeted sanctions against officials guilty of gross human rights violations.<sup>31</sup>

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<sup>26</sup> <https://www.thetimes.co.uk/article/hong-kong-visa-scheme-could-extend-to-the-young-rfsdcdn32>

<sup>27</sup> <https://www.theguardian.com/world/2021/nov/28/british-mps-call-for-law-changes-young-hongkongers-escape-to-uk>

<sup>28</sup> <https://www.thetimes.co.uk/article/hong-kong-under-24s-beg-to-come-to-britain-25x2b9lch>

<sup>29</sup> [https://www.thetimes.co.uk/article/90-000-from-hong-kong-apply-to-british-visa-scheme-t09k3b75v?utm\\_medium=Social&utm\\_source=Twitter#Echobox=1637946753](https://www.thetimes.co.uk/article/90-000-from-hong-kong-apply-to-british-visa-scheme-t09k3b75v?utm_medium=Social&utm_source=Twitter#Echobox=1637946753)

<sup>30</sup> [https://twitter.com/hk\\_watch/status/1463115302640701440?s=20](https://twitter.com/hk_watch/status/1463115302640701440?s=20)

<sup>31</sup> <https://twitter.com/kimbakit/status/1465941845460996096>

## **Consumers' Research warns about the risk of investing in China**

The US advisory group, Consumers' Research, has warned about the growing ties between BlackRock and China, and called on states invested in BlackRock to examine risks associated with investing in China.<sup>32</sup>

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<sup>32</sup> <https://markets.businessinsider.com/news/stocks/consumer-advocacy-group-blasts-blackrock-chinese-investments-markets-pension-funds-2021-12>