VI. Developments in Hong Kong and Macau

Hong Kong

During the Commission’s 2015 reporting year, massive pro-democracy demonstrations (“Occupy Central” or the “Umbrella Movement”) took place from September through December 2014, drawing attention to ongoing tensions over Hong Kong’s debate on electoral reform and Hong Kong’s autonomy from the Chinese central government under the “one country, two systems” approach. The Commission observed developments raising concerns that the Chinese and Hong Kong governments may have infringed on the rights of the people of Hong Kong, including in the areas of political participation and democratic reform, press freedom, and freedom of assembly.

UNIVERSAL SUFFRAGE AND AUTONOMY

Hong Kong’s Basic Law guarantees freedom of speech, religion, and assembly; promises Hong Kong a “high degree of autonomy”; and affirms the International Covenant on Civil and Political Rights (ICCPR) applies to Hong Kong. The Basic Law also states that its “ultimate aim” is the election of Hong Kong’s Chief Executive (CE) “by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures” and of the Legislative Council (LegCo) “by universal suffrage.” The CE is currently chosen by a 1,200-member Election Committee, largely consisting of members elected in functional constituencies made up of professionals, corporations, religious and social organizations, and trade and business interest groups. Forty LegCo members are elected directly by voters and 30 by functional constituencies. The electors of many functional constituencies, however, reportedly have close ties to or are supportive of the Chinese government.

Despite committing in principle to allow Hong Kong voters to elect the CE by universal suffrage in 2017, the Chinese government’s framework for electoral reform restricts the ability of voters to nominate CE candidates for election. Under this framework, laid out in an August 31, 2014, decision by the National People’s Congress Standing Committee (NPCSC), a 1,200-person Nominating Committee (NC), formed similarly to the Election Committee, would select two to three candidates, each of whom would ultimately require approval by a majority of NC members. Voters would then choose from among these two to three candidates in the CE election. The current Election Committee is dominated by members supportive of the central government. The Hong Kong government announced that any potential reforms would be in “strict conformity” with the NPCSC decision. Pro-democratic legislators pledged to veto any bill adhering to the NPCSC decision, which some described as “fake universal suffrage,” and demanded the NPCSC withdraw or revise its decision.

On June 18, 2015, the LegCo voted down the Hong Kong government’s electoral reform proposal. All 27 pro-democratic legislators and 1 pro-Beijing legislator voted against the proposal, denying the measure the two-thirds majority required for passage.
cause the reform proposal was defeated, future elections, including the 2017 CE \(^{18}\) and 2016 LegCo \(^{19}\) elections, will continue to use the current electoral methods. The Hong Kong government rejected calls to restart the electoral reform process, saying that doing so would be “legally infeasible and impracticable.”\(^{20}\)

**FALL 2014 PRO-DEMOCRACY DEMONSTRATIONS**

International rights non-governmental organizations (NGOs), domestic and international media organizations, and other observers expressed concern over aspects of the Hong Kong government and police response to massive pro-democracy demonstrations in fall 2014,\(^{21}\) citing threats to the rights of the people of Hong Kong to the freedoms of speech, assembly, and association guaranteed under the Basic Law and international law.\(^{22}\)

Pro-democratic activists called for protests against the NPCSC’s August 31 decision. The “Occupy Central with Love and Peace” protest group initially called for limited duration civil disobedience demonstrations to begin on a holiday.\(^{23}\) A separate university student class boycott culminated in hundreds of activists attempting to occupy a courtyard outside government headquarters on September 26 and 27, 2014.\(^{24}\) Thousands of people gathered near government headquarters to support the students.\(^{25}\) On September 28, police fired tear gas and pepper spray on crowds that had occupied a major thoroughfare near government headquarters,\(^{26}\) prompting tens of thousands of people to join the demonstrations over the next few days and occupy additional major streets in areas beyond the initially planned Central District.\(^{27}\) Protesters remained encamped at three separate protest sites until the Hong Kong government enforced a civil court order to clear the majority of protesters in November and December.\(^{28}\)

During the largely non-violent demonstrations,\(^{29}\) there were reports of violence between police, protesters, and counter-protesters. Some observers reported police at times used “excessive”\(^{30}\) or “unjustifiable”\(^{31}\) force against protesters, journalists, and onlookers.\(^{32}\) In one incident, police officers were filmed kicking a handcuffed activist.\(^{33}\) The police officers involved were immediately suspended and later arrested on suspicion of assault.\(^{34}\) Observers also reported several instances of protesters attacking police, including one instance on December 1 in which protesters reportedly beat a police officer unconscious.\(^{35}\) Journalists’ organizations said that in some instances, police witnessed counter-protesters attacking pro-democracy demonstrators, but did not protect them or promptly arrest the attackers.\(^{36}\) Hong Kong police and a police watchdog body received over 2,000 complaints regarding police conduct during the demonstrations and began investigating the complaints.\(^{37}\)

Journalists, media organizations, and NGOs reported dozens of incidents of attacks and threats against journalists covering the demonstrations.\(^{38}\) Media organizations reported several instances of police intimidating, threatening, or using “unnecessary force” against reporters covering the protests, even when reporters displayed press credentials.\(^{39}\) Pro-democracy media websites suffered numerous cyberattacks during the demonstrations.\(^{40}\)

Hong Kong police reportedly selectively enforced the law, arresting pro-democracy advocates and demonstrators as a form of har-
Police arrested more than 40 protesters, activists, and legislators for unauthorized assemblies, but released them without charge, reserving the right to prosecute them later. In one instance, police charged four prominent protest leaders in July 2015 with obstructing police officers at a non-violent June 2014 protest against the central government. One of the protesters said the timing of the charges was meant to "deter [them] from further political protests," while another described it as "white terror." The lawyer of one of the protesters said police were holding out the threat of additional prosecution against activists and protesters, including for actions and events over a year in the past, in order to forestall future demonstrations.

Police reportedly interpreted Hong Kong's Crimes Ordinance broadly to justify ordering the removal of online content encouraging participation in the fall 2014 demonstrations, characterized by police as "inciting others on the Internet to commit illegal acts." Critics worried that by exploiting the Ordinance's ambiguous language (regarding "access to [a] computer with criminal or dishonest intent") to arrest some activists, police may be "criminalizing legitimate, protected speech."

Protesters and pro-democracy activists reported sustained harassment and intimidation during and after the demonstrations, including hacking of their email accounts or phones, by groups reportedly connected to the Chinese government. Sources reported Chinese intelligence services hired former Hong Kong police officers to surveil people perceived to oppose the Chinese government, including pro-democratic legislators.

Some protesters and activists were unable to travel to mainland China or Macau due to their participation in the demonstrations. In November, Chinese authorities prevented three student protest leaders from flying to Beijing municipality to meet Chinese officials. Pro-democracy advocates claimed the Chinese and Hong Kong governments had assembled "blacklists" of activists banned from entering mainland China.

PRESS FREEDOM

This past year, continuing pressure from the Chinese and Hong Kong governments, including pressure to self-censor, and violence and intimidation reportedly resulted in further deterioration of Hong Kong’s press freedom. Reporters Without Borders lowered Hong Kong’s ranking from 61st to 70th out of 180 countries in its 2015 press freedom index. Nearly 90 percent of journalists surveyed by a journalists’ union believed press freedom in Hong Kong worsened over the last year.

Journalists at some publications reported editorial interference resulting in self-censorship and punishment. After TVB News aired a video reporting the beating of a handcuffed activist by several police officers, an editor temporarily deleted the video’s voiceover, later altering it to cast doubt on police use of force. TVB management reportedly punished several journalists who signed a petition condemning the editorial change. Two of the punished editors and several other journalists resigned, claiming dissatisfaction with TVB management. In February 2015, journalists at newspaper Ming Pao protested after the editor-in-chief unilaterally decided to
downplay a report on the violent suppression of the 1989 Tiananmen protests.65

The Hong Kong and Chinese central governments reportedly pressured journalists to give favorable coverage to opponents of the pro-democracy demonstrations.66 Many media owners have commercial interests in mainland China and connections to the Chinese government.67 Pro-democracy media organizations reportedly faced difficulties operating without support from government or business patrons.68 Pro-democracy media company Next Media and its journalists have been the targets of repeated attacks, threats, and harassment.69 In January 2015, attackers firebombed Next Media publication Apple Daily’s headquarters and the home of its prominent pro-democratic publisher.70

Macau

POLITICAL AND PRESS FREEDOMS

Although Macau’s Basic Law does not mention “universal suffrage,”71 it ensures the applicability of the International Covenant on Civil and Political Rights (ICCPR) in Macau.72 During the Commission’s 2015 reporting year, Macau did not make progress toward “an electoral system based on universal and equal suffrage . . .” in line with the ICCPR, and no steps were taken to withdraw the reservation to Article 25(b) of the ICCPR,73 as repeatedly recommended by the UN Human Rights Committee.74 Macau’s Legislative Assembly voted against discussing electoral reform to further democratize its elections, with some lawmakers saying Macau’s political development depends on central government decisions.75 A December 2014 opinion survey indicated that 60 percent of Macau residents supported universal suffrage for Chief Executive elections.76

Civil society activists in Macau reported intimidation77 from the Macau and Chinese governments meant to pressure activists to “tone down” their activities, reportedly because of fear of pro-democratic unrest in Hong Kong spreading to Macau.78 The Macau Journalists Association reportedly received anonymous complaints from reporters at public broadcaster Teledifusão de Macau that self-censorship had worsened.79

This past year, Macau authorities blocked some Hong Kong journalists, activists, and others from entering the territory for political reasons.80 Citing threats to internal security,81 Macau immigration authorities refused to allow several Hong Kong reporters to enter Macau to report on Chinese President and Communist Party General Secretary Xi Jinping’s visit in December 2014.82 A prominent pro-democratic Hong Kong legislator protested after authorities barred her from entering Macau “for security reasons” while she was on vacation in January 2015.83 Macau’s Secretary for Security denied that the Macau government had a “blacklist” banning certain people from entering Macau.84

CORRUPTION AND MACAU’S AUTONOMY

During the Commission’s 2015 reporting year, the Macau government expanded coordination with Chinese authorities, in part to fight financial crimes connected to Macau’s gambling industry and
to cooperate with the central government’s anticorruption campaign. Macau continued to be a center for violations of mainland China’s currency controls, in part through fraudulent use of UnionPay bank cards at mainland-registered point-of-sale terminals.85 From January to March 2015, illegal UnionPay transactions in Macau totaled MOP 260 million (US$32.5 million).86 Macau’s gambling regulator requires gaming operators to report “high value transactions”87 of MOP 500,000 (US$62,000) or greater,88 a reporting threshold higher than international anti-money laundering standards.89

To combat the use of UnionPay bank cards in evading mainland China’s capital controls, in November 2014, the Monetary Authority of Macau announced plans to create a “reciprocal surveillance mechanism”90 providing the Chinese Ministry of Public Security access to UnionPay money transfer data in Macau.91 Macau’s Commission Against Corruption said in April 2015 that Macau authorities would cooperate with Chinese authorities in “fugitive manhunt and asset recovery activities.”92 Officials from the Central Commission for Discipline Inspection reportedly are stationed in the central government’s Macau liaison office as part of the central government’s campaign against corruption.93

Macau officials held talks with Chinese authorities in February on potential regulations governing transfer of offenders or suspects to mainland China.94 The UN Human Rights Committee reiterated its concern that implementation of these regulations must ensure offenders’ protection under the ICCPR.95 In July, mainland anticorruption authorities reportedly worked with Macau law enforcement officials to detain a fugitive corruption suspect in Macau, returning him to Guangdong province.96 Some Macau legal experts criticized Macau authorities,97 referring to two previous rulings from Macau’s highest court holding that, due to the lack of an extradition agreement between Macau and mainland China, Macau authorities were not permitted to detain individuals wanted for extradition to mainland China.98
Notes to Section VI—Developments in Hong Kong and Macau

1 Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Zhonghua renmin gongheguo xianggang tebie xingzhengqu jiben fa), passed 4 April 80, effective 1 July 97, arts. 2 (“high degree of autonomy”), 27 (freedoms of speech and assembly), 29 (freedom of religion), 39 (applicability of the International Covenant on Civil and Political Rights).

2 Ibid., arts. 45 (Chief Executive), 68 (Legislative Council).

3 Ibid., art. 45, annex I, instrument 2.

4 Ibid., art. 45, annex I, instrument 2; Legislative Council of the Hong Kong Special Administrative Region, Legislative Council Ordinance (Cap. 542) [Di 542 zhang lifa hui tiaoli], amended 17 July 15, sec. 26; Tanna Chong, "Legco Election 2016: How a Handful of Voters Elect 30 Hong Kong Lawmakers," South China Morning Post, 6 February 14.

5 Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Zhonghua renmin gongheguo xianggang tebie xingzhengqu jiben fa), passed 4 April 90, effective 1 July 97, art. 68, annex II, instrument 4; Legislative Council of the Hong Kong Special Administrative Region, Legislative Council Ordinance (Cap. 542) [Di 542 zhang lifa hui tiaoli], 1 October 12, secs. 20ZC, 21(c); Tanna Chong, "LegCo Election 2016: How a Handful of Voters Elect 30 Hong Kong Lawmakers," South China Morning Post, 6 February 14; Stuart Lau, "Can Trade-Based Seats Continue To Function?" South China Morning Post, 8 February 14.


7 Decision of the Standing Committee of the National People's Congress on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administrative Region by Universal Suffrage and on the Method for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2016 (Quanguo renmin daibiao dahui changwu weiyuanhui guanyu xianggang tebie xingzhengqu xingzheng zhangguan puxuan wenti he 2016 nian lifa hui chansheng banfa de jueding), adopted 31 August 14, reprinted in Xinhua.


9 Decision of the Standing Committee of the National People's Congress on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administrative Region by Universal Suffrage and on the Method for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2016 (Quanguo renmin daibiao dahui changwu weiyuanhui guanyu xianggang tebie xingzhengqu xingzheng zhangguan puxuan wenti he 2016 nian lifa hui chansheng banfa de jueding), adopted 31 August 14 reprinted in Xinhua; Michael Martina and James Pomfret, "Hong Kong Braces for Protests as China Rules Out Full Democracy," Reuters, 31 August 14; Chris Buckley and Michael Forsythe, "China Restricts Voting Reforms for Hong Kong," New York Times, 31 August 14.


11 Decision of the Standing Committee of the National People's Congress on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administrative Region by Universal Suffrage and on the Method for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2016 (Quanguo renmin daibiao dahui changwu weiyuanhui guanyu xianggang tebie xingzhengqu xingzheng zhangguan puxuan wenti he 2016 nian lifa hui chansheng banfa de jueding), adopted 31 August 14 reprinted in Xinhua; Michael Martina and James Pomfret, "Hong Kong Braces for Protests as China Rules Out Full Democracy," Reuters, 31 August 14; Chris Buckley and Michael Forsythe, "China Restricts Voting Reforms for Hong Kong," New York Times, 31 August 14.


15 Joyce Ng, "27 Pan-Democrat Lawmakers United in Pledge To Vote Political Reforms," South China Morning Post, 10 March 15; "Central Government: Don't Make Unprincipled Concessions" [Zhongyang: bu zuo wu yuanze rangbu], Ming Pao, 20 April 15.

16 James Pomfret and Clare Baldwin, "Mystery Walk-Out in Hong Kong Vote Brings Heavy Defeat for Beijing," Reuters, 18 June 15; "Political Reform Rejected by Large 28:8 Margin" [28:8 zheng gai da bi shu foujue], Ming Pao, 18 June 15. The final vote was 8 in favor of the proposal and 28 against; 31 pro-Beijing legislators left the LegCo chamber as voting was taking place. "Hong Kong Reform Package Rejected as Pro-Beijing Camp Walk Out in Miscommunication," South China Morning Post, 19 June 15.

17 Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China [Zhonghua renmin gongheguo xianggang tebie xingzhengqu jiben fa], passed 4 April 80, effective 1 July 97, annex II.

18 Decision of the Standing Committee of the National People's Congress on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administrative Region by Universal Suffrage and on the Method for Forming the Legislative Council of the Hong Kong Spe-
cial Administrative Region in the Year 2016 [Quanguo renmin daihui dahui changwyu weiyuanhui guanyu xianggang tebie xingzhenggu xingzheng zhangguan puxuan wenji he 2016 nian lifa hui chansheng banfa ji youguan puxuan wenji de jueding], adopted 31 August 14, reprinted in Xinhuu, sec. 4. See also Hong Kong Information Services Department, “LegCo To Vote on Electoral Reform Package To Amend Method for Selection of Chief Executive of HKSAR,” 15 June 15.

10 Decision of the Standing Committee of the National People’s Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2016 [Quanguo renmin daihui dahui changwyu xianggang tebie xingzhenggu xingzheng zhangguan puxuan wenji he 2016 nian lifa hui chansheng banfa ji youguan puxuan wenji de jueding], adopted 29 December 07, para. 4; Decision of the Standing Committee of the National People’s Congress on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administrative Region by Universal Suffrage and on the Method for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2016 [Quanguo renmin daihui dahui changwyu xianggang tebie xingzhenggu xingzheng zhangguan puxuan wenji he 2016 nian lifa hui chansheng banfa ji youguan puxuan wenji de jueding], adopted 31 August 14, reprinted in Xinhuu, sec. 4.


13 See, e.g., Jennifer Ngo and Samuel Chan, “Student Pepper-Sprayed and Beaten Brands Po-


37 Samuel Chan, “Police Watchdog Has Reviewed 20 Per Cent of Occupy Complaints—But Has Nearly 2,000 Still To Go,” South China Morning Post, 6 March 15.


41 Hong Kong Lawmakers Arrested Over Democracy Protests,” Agence France-Presse, reprinted in Business Insider, 2 March 15.

42 Samuel Chan and Jeffie Lam, “Eleven More Occupy Activists Face ‘Arrest by Appointment’ at Hong Kong Police HQ,” South China Morning Post, 26 February 15; “Hong Kong lawmakers arrested over democracy protests,” Agence France-Presse, reprinted in Business Insider, 2 March 15; Hong Kong Information Services Department, “LCQ7: Arrests and Prosecutions in Relation to Public Order Events,” 25 March 15.

43 Legislative Council of the Hong Kong Special Administrative Region, Public Order Ordinance (Cap. 245) [Di 245 zhang gong’an tiaoli], amended 25 April 13, sec. 17A.

44 Hong Kong lawmakers arrested over democracy protests,” Agence France-Presse, reprinted in Business Insider, 2 March 15; Peter So, “Democratic Party Lawmakers Among Fresh Arrests of Key Occupy Central Figures,” South China Morning Post, 3 March 15.

45 Emily Tsang et al., “Student Activists Joshua Wong and Nathan Law Charged With Obstructing Police in Hong Kong Protest,” South China Morning Post, 14 July 15; Tony Cheung and Joyce Ng, “Student Activist Joshua Wong Faces Charges Over Hong Kong ‘White Paper’ Protest Last Year,” South China Morning Post, 7 July 15. Authorities reportedly charged the four protesters under the Offences against the Person Ordinance. Legislative Council of the Hong Kong Special Administrative Region, Offences against the Person Ordinance (Cap. 212) [Di 212 zhang gao ren shen zui tiaoli], amended 30 June 97, sec. 36(b) (“Any person who . . . assaults, resists, or wilfully obstructs any police officer in the due execution of his duty or any person acting in aid of such officer . . . shall be guilty of an offence . . . ”). See also “Joshua Wong and Three Others Arraigned Today, Again Protesters and Burning ‘White Paper’ [Huang zhifeng deng si ren jin titang zaici shiwei fenshao ‘baipishu’], Ta Kung Pao, 17 July 15.


47 Tony Cheung and Joyce Ng, “Student Activist Joshua Wong Faces Charges Over Hong Kong ‘White Paper’ Protest Last Year,” South China Morning Post, 7 July 15.


49 Legislative Council of the Hong Kong Special Administrative Region, Crimes Ordinance (Cap. 200) [Di 200 zhang xingshi zuixing tiaoli], amended 30 June 97, sec. 161.

6 January 15.

Tightened Control” [Activistas dizem que pequim apertou controlo], Jornal Tribuna de Macau, 29 December 14.

21 January 15. See also Sandra Lobo Pimentel, “Handover of Criminals to Mainland Must Follow Humanitarian Tradition” [Entrega de infractores ao continente deve seguir tradic¸a˜o humanista], Jornal Ponto Final, 25 February 15.


13 November 06, Definitions.


10 to the Concluding Observations of the Human Rights Committee, CCPR/C/112/2, 8 December 14, 25.


87 Gaming Inspection and Coordination Bureau, Instruction No. 2/2006 Preventive Measures Related to Mainland Bank Cards and Mainland POS Machines, 24 July 07, 155, 225.


96 Guangdong Province Discipline Inspection Commission and Guangdong Province Supervision Department, “Guangdong ‘Red Notice’ Figure Wu Quanshen Seized and Brought to Justice” [Guangdong “hong tong” renyuan wu quanshen bei ji’na gui’an], 23 July 15; He Na, “One of 100 Most-Wanted Fugitives Caught in Macao,” China Daily, 25 July 15. Macau’s Secretary for Security reportedly said that the fugitive’s expulsion was due to his lack of residence permit and that he was not extradited or handed over to mainland police. Macau authorities reportedly canceled the man’s temporary Macau residence permit and expelled him to mainland China. Lan Huilong, “Deported by Macau Police, Only Village Official Captured Under Red Notice” [Bei aomen jingfang quzhu chujing hongse tongji ling weiyi cunguan luowang], Southern Metropoli­tan Daily, 29 July 15; Patricia Silva Alves, “Government Withdraws Residence Permit for Fugitive Wanted by Interpol” [Governo retirou autorizacão de residência a fugitivo procurado pela interpol], Jornal Ponto Final, 30 July 15.


98 Court of Final Appeal of the Macau Special Administrative Region, Case No. 12/2007 [Di 12/2007 hao an], issued 20 March 07, Summary; Court of Final Appeal of the Macau Special Administrative Region, Case No. 3/2008 [Di 3/2008 hao an], issued 12 February 08, Summary, 3. In both cases, the Macau Court of Final Appeal held that without explicit extradition guidelines and without an extradition agreement between Macau and mainland China, Macau authorities could not detain individuals sought by Interpol for handover to mainland China.