

CECC Annual Report 2021

KEY FINDINGS

DEVELOPMENTS IN HONG KONG AND MACAU

- Despite repeatedly professing to uphold the “one country, two systems” model, central authorities continued to disregard and effectively nullify Hong Kong’s high degree of autonomy, such as by unilaterally passing election reforms for the selection of the Chief Executive and Legislative Council members without any meaningful participation by Hong Kong residents. Among other changes, one election reform reconstituted the election committee by diluting or eliminating seats that traditionally favor the pro-democracy camp.
- Hong Kong authorities continued to enforce the National Security Law (NSL), resulting in over a hundred arrests, the majority of which were for peaceful assembly or engaging in political activities. In January 2021, for example, police arrested more than 50 pro-democracy advocates in connection with their organization of, or participation in, the July 2020 primary election, which was in practice an informal opinion poll designed to improve coordination among pro-democracy candidates to increase the chance of attaining a majority in the Legislative Council. The Hong Kong government, however, alleged that the arrestees had endangered national security.
- The Hong Kong government repressed the media, such as by raiding a pro-democracy newspaper and detaining its founder, and by overhauling the governance of the city’s public broadcaster and prosecuting one of its journalists in connection with her investigation into allegations of police misconduct. The Hong Kong Police Force also revised its operational guidelines and adopted a narrower definition of “journalist,” which had the effect of excluding many independent journalists from restricted areas and exposing them to potential criminal liability.
- The Hong Kong government exercised unprecedented supervision and suppression of internet activity under the authorities of the NSL. On January 13, 2021, the Hong Kong Broadband Network blocked public access to HKChronicles, a website promoting pro-democracy viewpoints. On January 28, 2021, the Hong Kong Internet Registration Corporation Limited, a company designated by the government to administer internet domain name registration, enacted a revised “acceptable use” policy that enables it to reject website registration requests that may “promote any illegal activity.” On February 12, 2021, internet service providers blocked access to the Taiwan Transitional Justice Commission website in Hong Kong. Additionally, major technology companies including Facebook, Twitter, WhatsApp, and Google have stopped reviewing requests for user data from Hong Kong authorities.
- As obligated by the NSL, the Hong Kong government must promote “national security education in schools and universities.” The government implemented a national security-focused curriculum and regulated speech in schools, prohibiting

students from singing a protest anthem or expressing political demands. It also instituted a review process for liberal studies textbooks, resulting in the deletion or modification of content concerning the 1989 Tiananmen protests, separation of powers, and the demand for universal suffrage.

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- The Hong Kong government exerted pressure on the media, such as by raiding a pro-democracy newspaper and detaining its founder, and by overhauling the governance of the city’s public broadcaster and prosecuting one of its journalists in connection with her investigation into allegations of police misconduct. The Hong Kong Police Force also revised its operational guidelines and adopted a narrower definition of “journalist,” which had the effect of excluding many independent journalists from restricted areas and exposing them to potential criminal liability.
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textbooks, resulting in the deletion or modification of content concerning the 1989 Tiananmen protests, separation of powers, and the demand for universal suffrage.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

- Continue to advocate for Hong Kong pro-democracy advocates who have been charged, detained, or imprisoned under the National Security Law or for other political reasons, including—**Joshua Wong, Agnes Chow, Jimmy Lai, Albert Ho, Cyd Ho, Lee Cheuk-yan, Leung Kwok-hung, Benny Tai, Claudia Mo, Tam Tak-chi, Tiffany Yuen, Lester Shum, Andy Li, and Tony Chung.**
- Urge Hong Kong government officials to establish a genuinely independent entity to investigate allegations of police brutality and other misconduct and abide by the recommendations of such entity. Further extend legislation banning export of crowd control weapons to the Hong Kong Police Force (Public Law 116–77, as amended by Public Law 116–283).
- Urge Hong Kong and Macau government officials to reverse measures on the cities’ respective public broadcasters that negatively impact press freedom, to cease all prosecution against journalists for conducting legitimate investigative reporting, to discontinue the practice of preventing Hong Kong people from freely expressing themselves online, and to amend the police’s operational guidelines to undo restrictions on journalists’ access.
- The U.S. Administration should conduct an urgent discussion on Hong Kong at the UN Human Rights Council. Inquire as to the implementation status of measures suggested by 50 independent United Nations human rights experts in a joint letter dated July 2020, which include creating a special session to evaluate China’s human rights violations; establishing an impartial and independent mechanism to monitor, analyze, and report on China’s practices; and engaging in dialogue with China to demand that it fulfill its human rights obligations.
- Call on the UN High Commissioner for Human Rights to request that the Hong Kong government update its periodic report, previously submitted in September 2019 under article 40 of the International Covenant on Civil and Political Rights (ICCPR), to address issues postdating the submission, such as the arbitrary detention of democracy advocates, enforcement of the National Security Law, and the implementation of the electoral reforms imposed by the Chinese central government.

DEVELOPMENTS IN HONG KONG AND MACAU

Hong Kong

This past year, the Commission observed the rapid deterioration of human rights in Hong Kong. The Hong Kong government arrested over a hundred people under the vaguely defined provisions of the new National Security Law, creating a chilling effect on political speech and civic engagement. Central authorities also imposed electoral reforms designed to enhance their control over the selection process of the Chief Executive and Legislative Council members. These measures were adopted without any meaningful participation by Hong Kong residents and have had a significant impact on their fundamental rights, including the rights to assembly, speech, due process, and education.

Hong Kong's Autonomy: Legal Framework and China's Position

The Hong Kong Special Administrative Region (SAR) was established on July 1, 1997, when the United Kingdom restored Hong Kong to China pursuant to the 1984 Sino-British Joint Declaration (Joint Declaration).¹ At the same time, the Basic Law of the Hong Kong Special Administrative Region (Basic Law) became effective.² Under the Basic Law, Hong Kong may “exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power” except for foreign affairs and defense.³ According to “the principle of ‘one country, two systems,’ the socialist system and policies will not be practised in [Hong Kong].”⁴ Beginning in 2014, Chinese authorities—while continuing to restate the “one country, two systems” principle—have asserted comprehensive jurisdiction (*quanmian guan zhi quan*) over Hong Kong and have unilaterally announced that the Joint Declaration had been void since the handover.⁵ Recent official rhetoric emphasized patriotism and “governing Hong Kong by patriots” which, according to one observer, signaled a shift toward direct governance by central authorities.⁶

Official Actions Affecting Hong Kong's Autonomy

PASSAGE OF THE NATIONAL SECURITY LAW

The PRC Law on Safeguarding National Security in the Hong Kong SAR (National Security Law), drafted and passed by mainland central authorities without genuine participation by Hong Kong residents, effectively nullifies Hong Kong's high degree of autonomy and has far-reaching negative effects on fundamental freedoms in the city.⁷ On June 30, 2020, the National People's Congress (NPC) Standing Committee passed the National Security Law, effective on the same day.⁸ The new law, incorporated into Annex III of Hong Kong's Basic Law (the city's constitutional document),⁹ is designed to “safeguard national security” and criminalizes “secession,” “subversion,” “terrorist activities,” and “collusion with a foreign country or with external elements to endanger national security.”¹⁰ The law requires Hong Kong's Chief Executive to handpick judges in national security cases,¹¹ confers jurisdiction to the PRC central government under some circumstances,¹² and orders the Hong Kong SAR government to “strengthen propaganda,

guidance, supervision, and administration” over “schools, social groups, media, and the internet.”¹³

Seven United Nations experts issued a joint letter in September 2020 observing that the law “implicates both serious concerns of legality as well as undue limitations on freedom of opinion, expression and peaceful assembly.”¹⁴ The experts concluded that the crimes under the law are vaguely defined and can be used to punish people for what they think (or what they are perceived to think), rather than for their actions.¹⁵ They also found the provision allowing the transfer of individuals to mainland China to be problematic because China is not a party to the International Covenant on Civil and Political Rights (ICCPR), which protects due process rights during the criminal process.¹⁶

IMPOSITION OF ELECTORAL REFORMS

During the reporting period, mainland central authorities rewrote the rules for selecting Hong Kong’s Chief Executive and members of the Legislative Council (LegCo) in a manner that diminished the power of the city’s pro-democracy political parties, drawing international criticism. In March 2021, the National People’s Congress (NPC) Standing Committee revised Annexes I and II of the Hong Kong Basic Law concerning the processes for selecting the Chief Executive and members of the Legislative Council.¹⁷ The imposed reforms reshape the election committee responsible for selecting the city’s chief executive in several ways that strengthen the position of pro-government politicians.¹⁸ The enactment adds 300 seats to the election committee, expanding it to a 1,500-member body.¹⁹ Simultaneously, it creates seats reserved for government-appointed positions to replace the subsector previously designated for the district council—a directly elected community-level body that had been dominated by pro-democracy politicians since the election of November 2019.²⁰ The revision also reduces seats or dilutes them with nominations by government-controlled groups in sectors that were previously dominated by the pro-democracy camp, such as the medical, public health, social work, and legal sectors.²¹

Changes to the committee’s composition also would impact the legislative council, since the revision reserves 40 seats in the LegCo for election committee members.²² Under the new law, candidates for Chief Executive, LegCo, and election committee positions must be screened by the newly created Candidate Eligibility Review Committee based on reports prepared by the Committee for Safeguarding National Security, the decisions of which are not subject to judicial review.²³

Central authorities’ changes to Hong Kong’s electoral system prompted some critical voices inside and outside Hong Kong. The chairperson of the Hong Kong Democratic Party said the new rules would make it much harder for public opinions to reach the legislative system,²⁴ the UN Secretary General expressed that “the will of the people of Hong Kong needs to be respected,” and the U.K. Foreign Secretary declared China’s move to be a breach of the Joint Declaration.²⁵

NEW OATH REQUIREMENT FOR CIVIL SERVANTS

In two circulars issued in October 2020 and January 2021, the Hong Kong government required all civil servants to uphold the Basic Law and declare allegiance to the Hong Kong SAR.²⁶ As of May 2021, 129 of 170,000 civil servants in Hong Kong had refused to sign the declaration and later resigned or were either suspended or terminated.²⁷ One of two civil servants interviewed by BBC said that the government did not seek public comment prior to enforcing the new requirement and that she found the content of the oath to be vague.²⁸ The other interviewee expressed concerns that civil servants might be forced to carry out political tasks, citing an example where she believed the Customs and Excise Department had selectively enforced a labeling regulation against a pro-democracy retail chain.²⁹

Arrest of Pro-Democracy Advocates

Circumstances surrounding mass arrests of pro-democracy politicians suggest that they were politically motivated, despite official denial.

CRACKDOWN ON PRO-DEMOCRACY NEWSPAPER AND RELATED ARRESTS IN AUGUST 2020

- On August 10, 2020, Hong Kong police arrested 10 democracy advocates and news media executives on a range of criminal charges, including “collusion with external elements” under the National Security Law.³⁰ About 200 police officers raided the office building of Next Digital, the parent company of the pro-democracy news outlet Apple Daily, seizing 25 boxes of materials.³¹ Among those arrested in the raid were Next Media’s founder **Jimmy Lai Chee-ying** and executives **Cheung Kim-hung**, **Royston Chow Tat-kuen**, **Kith Ng Tat-kong**, and **Wong Wai-keung**.³² Police blocked several media outlets—including Reuters, the Associated Press, and Agence France-Presse—from attending a press briefing on the incident, allowing only “local, relatively well-established” outlets that “would not obstruct police work.”³³ The Foreign Correspondents’ Club condemned the police’s actions, saying that giving police discretion “to decide who counts as a legitimate journalist . . . will mark the end of press freedom in Hong Kong . . .”³⁴
- Police also arrested Jimmy Lai’s sons **Timothy Lai Kin-yang** and **Ian Lai Yiu-yan**, as well as democracy advocates **Agnes Chow Ting**, **Andy Li Yu-hin**, and **Wilson Li Chung-chak**.³⁵ The arrests of the latter three were believed to be related to their operation of an organization that advocated for imposing sanctions on Hong Kong officials, and police alleged that unspecified media executives had supported the organization through overseas accounts.³⁶ Three days earlier, on August 7, the U.S. Government announced its decision to impose “sanctions on 11 [Chinese government officials] for undermining Hong Kong’s autonomy and restricting the freedom of expression or assembly of the citizens of Hong Kong.”³⁷

ARRESTS OVER THE MAY 2020 LEGCO FRAY

- In November 2020, Hong Kong police arrested eight pro-democracy politicians for “contempt and interference with [LegCo] members,” alleging that they “had either dashed toward the chairperson’s desk and bumped into security guards, or thrown papers from the public gallery” during a fight in the LegCo chamber between pro-democracy and pro-establishment legislators in May.³⁸ The dispute was over the chairperson of the LegCo House Committee, who decides when to bring bills to a final vote.³⁹ Pro-establishment member Starry Lee previously stepped down from her position as the committee’s chair in order to run for re-election, which meant pro-democracy member Dennis Kwok became interim chair.⁴⁰ A meeting was later convened in which Lee was “unanimously” re-elected, after pro-democracy LegCo members were ejected.⁴¹ Police did not arrest any pro-establishment members despite at least one of them having used physical force on another lawmaker.⁴²

ARRESTS OVER THE JULY 2020 PRIMARY

- Hong Kong police targeted democratic advocates who organized and participated in a primary election in anticipation of the Legislative Council elections. On January 6 and 7, 2021, the National Security Department of the Hong Kong Police Force arrested 55 democracy advocates.⁴³ Police released them on bail, requiring them to report to authorities periodically, with the next reporting date set to April.⁴⁴ However, police advanced the reporting date, requiring them to appear on February 28, 2021, at which point police arrested 47 of them, charging them with “conspiracy to commit subversion” under the National Security Law.⁴⁵ The arrests took place about a week before the NPC announced the decision to reform the city’s electoral system.⁴⁶ A defense lawyer questioned “why police had ‘rushed’ to press charges . . . some 5 weeks earlier than originally scheduled.”⁴⁷
- Police said the arrests were connected to a July 2020 non-legally binding primary election organized by pro-democracy advocates and held in July 2020, two months ahead of the LegCo election originally scheduled for September.⁴⁸ Among the 47 individuals arrested were five leading organizers and coordinators of the primary, namely, **Benny Tai Yiu-ting, Au Nok-hin, Andrew Chiu Ka-yin, Ben Chung Kam-lun, and Gordon Ng Ching-hang**, according to one media outlet.⁴⁹ Other arrestees included 12 former LegCo members, 18 current district councillors, and 12 activists.⁵⁰ Under the National Security Law,⁵¹ a principal offender of subversion may be sentenced to 10 years to life in prison, and an active participant may be sentenced to 3 to 10 years.⁵² The international human rights organization Human Rights Watch regarded the mass arrests as part of the Chinese government’s “escalating campaign to end competitive elections in Hong Kong and its crackdown on the territory’s freedoms.”⁵³

[For more information on the July 2020 primary election, see subsection “Interference in Primary Election” below.]

CONVICTION AND SENTENCING OF PROMINENT PRO-DEMOCRACY
FIGURES FOR JOINING PEACEFUL MARCH

- On April 16, 2021, a court convicted and sentenced 10 democracy advocates to terms of imprisonment ranging from 8 to 18 months, with five defendants receiving suspended sentences: **Leung Kwok-hung, Jimmy Lai, Lee Cheuk-yan, Au Nok-hin, Cyd Ho, Albert Ho, Margaret Ng, Martin Lee Chu-ming, Yeung Sum, and Leung Yiu-chung.**⁵⁴ They were found guilty of “unauthorized assembly” in connection with their roles in pro-democracy protests held in August 2019.⁵⁵ Although the judge found that the August 18 protest was peaceful, deterrent punishment was deemed appropriate given a “latent risk of possible violence.”⁵⁶
- On May 6, 2021, a court convicted and sentenced democracy advocates **Joshua Wong** and district councillors **Lester Shum, Tiffany Yuen, and Jannelle Leung** to prison terms ranging between 4 and 10 months for taking part in the commemoration of the 1989 Tiananmen protests in June 2019, which the Hong Kong police refused to authorize for public health reasons.⁵⁷
- On May 28, 2021, a court convicted and sentenced 10 pro-democracy leaders for participating in an “unauthorized assembly” on October 1, 2019, National Day: **Albert Ho, Lee Cheuk-yan, Leung Kwok-hung, and Figo Chan** were sentenced to 18 months in prison, **Jimmy Lai, Cyd Ho, Yeung Sum, and Avery Ng** received 14 months, and **Sin Chung-kai** and **Richard Tsoi** received suspended sentences. In justifying what she called “deterrent” sentences, the judge noted that it was “naive and unrealistic” for the defendants to believe violence would not break out given the prevailing situation at that time.⁵⁸

Detention of Hong Kong Residents in Mainland China

During the reporting period, mainland Chinese officials detained several Hong Kong residents in mainland China for their participation in pro-democracy protests in Hong Kong. One of the individuals detained in China was also taken into custody by Hong Kong officials for suspected violations of the National Security Law upon his return to the territory.

Detention of Hong Kong Residents in Mainland China— Continued

DETENTION OF ALEXANDRA WONG

Chinese authorities arbitrarily detained and mistreated Hong Kong resident **Alexandra Wong Fung-yiu** (also known as “Grandma Wong”) over her protest activities that did not take place in mainland China. A Hong Kong resident and regular protest participant, Wong said that Chinese authorities arrested her at the Hong Kong-mainland border in August 2019 when she was traveling from Hong Kong to her home in Shenzhen municipality, Guangdong province.⁵⁹ Authorities held Wong under administrative and criminal detention for a total of 45 days, further subjecting her to long periods of interrogation and making her stand in front of the Chinese flag for hours at a time.⁶⁰ Wong was ordered to renounce her activism and to declare on camera that she had not been tortured and that she would not join any protests or give media interviews.⁶¹ Officials additionally took Wong on a “patriotic tour” to Shaanxi province, ordering her to sing the Chinese national anthem and photographing her waving the Chinese flag.⁶² Thereafter, authorities ordered Wong to remain in Shenzhen and did not permit her to return to Hong Kong until October 2020.⁶³

In general, the PRC Criminal Law is applicable to cases in which the conduct in question took place in China,⁶⁴ which, for the purpose of determining criminal jurisdiction, does not include Hong Kong or Macau given the “one country, two systems” arrangement, as explained by the National People’s Congress in 2002.⁶⁵

DETENTION OF 12 HONG KONG RESIDENTS FOR BORDER-CROSSING

The detention of 12 Hong Kong residents illustrates a range of procedural violations including denial of access to legal counsel of a person’s own choosing, a practice that may have extended to Hong Kong, as illustrated in the case of **Andy Li**. On August 23, 2020, China’s coast guard intercepted a speedboat in the South China Sea and arrested 12 individuals who were allegedly fleeing from Hong Kong to Taiwan to seek asylum relating to their participation in the series of pro-democracy protests that began in 2019.⁶⁶ Chinese authorities held the detainees at the Yantian District PSB Detention Center in Shenzhen municipality, Guangdong province, formally arresting them on September 30 for “illegally crossing the border.”⁶⁷ Authorities reportedly denied legal counsel visits and pressured lawyers hired by family members to withdraw representation, resulting in at least five withdrawals.⁶⁸ While authorities said that the 12 individuals had retained government-appointed lawyers, they refused to disclose information about these lawyers.⁶⁹

Lawyers Ren Quanniu and Lu Siwei, who tried unsuccessfully to represent some of the detainees, subsequently had their law licenses revoked by officials.⁷⁰ Three of the 12 detainees have existing health concerns, but whether they are receiving adequate medical treatment is unknown, because authorities denied family and legal counsel visits.⁷¹ Except for two minor detainees (whom officials returned to Hong Kong in the same month), the Yantian District People’s Court in December sentenced the defendants to terms of imprisonment ranging from seven months to three years, following a closed trial in December 2020.⁷²

**Detention of Hong Kong Residents in Mainland China—
Continued**

Andy Li Yu-hin, one of the detainees, returned to Hong Kong in March 2021 after completing his sentence.⁷³ According to people familiar with the case, Hong Kong police took him into custody upon his arrival for alleged violations of the National Security Law, holding him at a maximum security psychiatric hospital in solitary confinement.⁷⁴ Li's family was unable to confirm Li's detention location because Hong Kong authorities denied having any record of it.⁷⁵ The Correctional Services Department noted that "individual detainees may 'decline' to inform their family of their location," as reported by Radio Free Asia.⁷⁶ According to one source, Li was in good physical health and was of sound mind such that he did not need to be committed to a psychiatric hospital.⁷⁷

Li's sister said that authorities did not permit the lawyer hired by the family to meet with Li during his detention in Hong Kong.⁷⁸ In one court hearing, Li was represented by a lawyer.⁷⁹ The lawyer issued a statement through his firm saying that he had not been appointed by the authorities, but the family had no knowledge of this representation.⁸⁰ In April, Li made a court appearance, represented by another lawyer.⁸¹ The lawyer did not deny that Li was held at a psychiatric hospital but refused to disclose the conditions of his detention, saying that it was "Li's 'will.'"⁸² The lawyer added that Li was applying for legal aid but did not say who was paying his current legal fees.⁸³

Authorities' Attempts to Curb Civic Engagement

INTERFERENCE IN PRIMARY ELECTION

In June 2020, several pro-democracy activists and the political group Power for Democracy organized and coordinated an unofficial and non-binding primary election (*i.e.*, a *de facto* opinion poll) to select candidates to run for the LegCo election.⁸⁴ The pro-democracy camp intended to use the primary to improve coordination among the candidates, increasing the chance that the pro-democracy coalition would secure a majority in the LegCo.⁸⁵

Despite the primary's non-binding nature, Secretary for Constitutional and Mainland Affairs Erick Tsang (a top Hong Kong government official who liaises with Chinese authorities) warned that the primary could violate the National Security Law on grounds that co-organizer Benny Tai had mentioned the use of the budgetary process to "paralyze" the government if the pro-democracy camp gained control of the LegCo.⁸⁶

In a move likely intended to intimidate the pro-democracy camp, authorities carried out a raid on an organization connected with the primary election. On the eve of the primary, police raided the office of the Hong Kong Public Opinion Research Institute, which designed and set up the voting system for the primary.⁸⁷ Co-organizer Au Nok-hin said the raid "was very likely related to the primary vote, to create a threatening effect."⁸⁸

Nevertheless, the two-day primary took place as planned and concluded on July 12, with a turnout of over 610,000 people, representing 13.8 percent of registered voters.⁸⁹ The primary's results, announced on July 15, showed widespread support among primary

voters for candidates who had been visibly active during the protests in 2019, including those facing rioting charges.⁹⁰ [For information on the arrests of individuals who organized and coordinated the primary election, see subsection “Arrests Over the July 2020 Primary” above.]

INTERFERENCE IN LEGISLATIVE COUNCIL ELECTION

On July 30, 2020, elections officials invalidated the nominations of 12 individuals for the LegCo election⁹¹ originally scheduled for September 6,⁹² on the grounds that they had solicited intervention by foreign governments in Hong Kong affairs, opposed the National Security Law, and advocated a change in Hong Kong’s status as a special administrative region.⁹³ The disqualified nominees have been described by media sources as “pro-democracy” and included incumbent LegCo members, district councillors, and activists.⁹⁴ The Hong Kong government, however, denied political censorship.⁹⁵

The next day, the Hong Kong government announced it would postpone the LegCo election by one year, citing public health concerns amid the COVID-19 pandemic.⁹⁶ The Hong Kong Bar Association expressed “serious doubts about the legal and evidential basis of the Government’s decision” and further noted that the Basic Law specifies a LegCo term to be four years and that the length of postponement permissible under the law should not exceed 14 days.⁹⁷ Some observers said that the disqualifications and the postponement were the government’s reaction to the pro-democracy camp’s overwhelming success in district council elections in November 2019,⁹⁸ with activist Joshua Wong (who was among those disqualified) calling the measures government interference.⁹⁹

DISQUALIFICATION OF LEGISLATIVE COUNCIL MEMBERS

The National People’s Congress Standing Committee issued a decision in November 2020, promulgating a rule that would immediately disqualify a LegCo member for endangering state security, such as by advocating Hong Kong independence, denying China’s sovereignty over Hong Kong, or asking a foreign country to interfere in Hong Kong affairs.¹⁰⁰ The decision requires that the determination be made “in accordance to legal procedures,” but it did not specify the applicable legal procedures.¹⁰¹ Immediately after the issuance, the Hong Kong government announced the disqualification of four pro-democracy LegCo members: **Alvin Yeung Ngok-kiu, Dennis Kwok Wing-hang, Kwok Ka-ki, and Kenneth Leung Kai-cheong.**¹⁰² In protest, 15 pro-democratic LegCo members resigned together, resulting in a LegCo controlled almost entirely by pro-establishment members.¹⁰³ A scholar questioned if the rule of law still existed in Hong Kong when LegCo members could be disqualified at will, and pointed out that the NPC Standing Committee’s decision was in conflict with Article 79 of the Basic Law, which requires that disqualification on the basis of misconduct must be based on censure by “a vote of two-thirds of the members of the Legislative Council present.”¹⁰⁴

SUPPRESSION OF PROTEST

On September 6, 2020, thousands of people joined a march to protest the postponement of the LegCo election.¹⁰⁵ The Hong Kong government, in addition to characterizing the assemblies as unlawful, highlighted the fact that the protesters were chanting “slogans connoting Hong Kong independence.”¹⁰⁶ Police conducted widespread stops and searches and arrested nearly 300 people, mostly for “unauthorized assembly,” with at least one person facing charges under the National Security Law.¹⁰⁷ Three activists—**Figó Chan, Raphael Wong, and Leung Kwok-hung**—who held up protest placards, received citations for violating COVID-19 restrictions on group gatherings,¹⁰⁸ and were later arrested by police when they continued to protest.¹⁰⁹ A Hong Kong police officer told the Washington Post on condition of anonymity that “mass arrests are a tactic frequently deployed to scare pro-democracy protesters and their sympathizers and to deter further protests.”¹¹⁰

Restrictions on Information and Media Freedom

Hong Kong’s ranking in the 2021 World Press Freedom Index continued to drop.¹¹¹ The compiler of the index, Reporters Without Borders, noted that the National Security Law allows the Chinese government to “arbitrarily punish what it regards as ‘crimes against the state,’ [which] is especially dangerous for journalists.”¹¹² The index cited the arrest of **Jimmy Lai**, the founder of the pro-democracy newspaper Apple Daily, as an example of such arbitrary punishment.¹¹³ In addition, the Immigration Department delayed the processing of visa applications filed by foreign journalists and denied at least two of them without providing any reason, which prompted concerns that these applications were subject to review by the department’s new national security unit.¹¹⁴ Other examples of actions taken by the Hong Kong government having a negative effect on media freedom include the following:

CHANGE OF POLICE OPERATION GUIDELINE TO EXCLUDE ACCESS BY MANY JOURNALISTS

In September 2020, the Hong Kong Police Force amended operational guidelines—the Police General Orders—to adopt a narrower definition of the term “media representative.”¹¹⁵ In effect, police generally would cease to recognize press accreditations issued by local media groups or journalist associations.¹¹⁶ This change would limit access to restricted areas and press briefings by a substantial portion of journalists, particularly student journalists and online media workers.¹¹⁷ In addition, a South China Morning Post article noted that the new guidelines could expose unrecognized journalists to criminal charges “including attending an illegal assembly or violating social-distancing rules.”¹¹⁸ In reaction to the amendment, eight journalist associations and unions issued a joint letter criticizing the change as de facto implementation of a government licensing system and an infringement on press freedom guaranteed by the Basic Law.¹¹⁹

CRIMINAL PROSECUTION OF JOURNALISTS

The Hong Kong government continued to use criminal prosecution to crack down on dissent, particularly that of investigative journalists.¹²⁰ For example, police arrested Radio Television Hong Kong (RTHK) journalist **Choy Yuk-ling** in November 2020 for “breaching the law for accessing a public database of car registrations”¹²¹ when she obtained car registration information to prepare for a documentary investigating the police’s failure to prevent a mob attack on protesters in July 2019.¹²²

In another example, police arrested a reporter who they said had refused to comply with orders to stop photographing.¹²³ The reporter said that she started photographing when she saw five or six police officers zip-tying two females as she entered a public bathroom.¹²⁴ She further said that police pepper-sprayed her, stepped on her back, knelt on her neck, and pressed her head down with a police baton, causing incontinence and loss of consciousness.¹²⁵ The reporter said she was wearing a reflective vest and a press identification card at the time.¹²⁶

OVERHAUL OF PUBLIC BROADCASTER’S GOVERNANCE

Authorities overhauled Hong Kong’s public broadcaster RTHK in a manner that restricted its editorial autonomy.¹²⁷ Fully funded by the government, RTHK came under increasing pressure for its independent approach to covering pro-democracy protests, which resulted in the government suspending two of its programs.¹²⁸ In August 2020, the broadcaster removed an interview with democracy advocate Nathan Law, citing the National Security Law.¹²⁹ In January 2021, the Hong Kong Journalists Association (HKJA) issued a statement alleging political interference in an RTHK personnel matter concerning the treatment of reporter **Nabela Qoser**, who was known to ask government officials tough questions during the 2019 protests.¹³⁰ In February 2021, after conducting a six-month review of the broadcaster, the Hong Kong government placed an administrative officer with no broadcast experience in charge of RTHK.¹³¹ This prompted the resignation of three of RTHK’s senior employees and a protest by union representatives, who demanded that the new leadership provide editorial autonomy.¹³² In May, RTHK told Qoser that it would not award her a civil servant contract, which had the practical effect of forcing her to leave the organization.¹³³ [For more information on the arrest of Jimmy Lai and the raid of Apple Daily’s headquarters, see subsection “Crackdown on Pro-Democracy Newspaper and Related Arrests in August 2020” above.]

RESTRICTIONS ON INTERNET ACTIVITY

The Hong Kong government exercised unprecedented supervision and suppression of internet activity under the authorities of the NSL. On January 13, 2021, the Hong Kong Broadband Network blocked public access to HKChronicles, a website promoting pro-democracy viewpoints.¹³⁴ On January 28, 2021, the Hong Kong Internet Registration Corporation Limited, a company designated by the government to administer internet domain name registration, enacted a revised “acceptable use” policy that enables it to re-

ject website registration requests that may “promote any illegal activity.”¹³⁵ On February 12, 2021, internet service providers blocked access to the Taiwan Transitional Justice Commission website in Hong Kong.¹³⁶ Additionally, major technology companies including Facebook, Twitter, WhatsApp, and Google have stopped reviewing requests for user data from Hong Kong authorities.¹³⁷

Pressure on the Education Sector

The Hong Kong government directly or indirectly regulated political content of books, restricted speech in schools, and further exerted pressure on educators by means including termination and disciplinary measures.

POLITICAL CONTENT IN TEXTBOOKS SUBJECT TO REVIEW

In August 2020, media sources reported that new editions of liberal studies textbooks had modified or deleted discussions on topics including the 1989 Tiananmen protests, separation of powers, and the demand for universal suffrage.¹³⁸ Earlier, in September 2019, the Education Bureau instituted “professional consultancy services” to review liberal studies textbooks in light of allegations that some teachers did not present political issues in an “impartial” manner.¹³⁹ While publishers were not required to use the services, and there was not a recommended textbook list, the Education Bureau disseminated to schools “the requirements and criteria for selecting learning and teaching resources” and required teachers “to select quality learning and teaching resources which are in line with the curriculum aims and objectives.”¹⁴⁰

POLITICAL CONTROL IN PUBLIC SCHOOLS

The Hong Kong government implemented a national security-focused curriculum and regulated speech in schools. In a written reply to a question submitted by the LegCo representative for the Education constituency, dated July 8, 2020, Secretary for Education Kevin Yeung said that “[schools] should not be used as a venue for anyone to express their political demands” and further instructed that schools must ban students from singing the pro-democracy protest anthem “Glory to Hong Kong” and should dissuade students from engaging in activities that would “carry strong political messages.”¹⁴¹ The Education Bureau further implemented a national security curriculum beginning in primary school and disciplined school teachers for preparing coursework deemed inconsistent with the officially promulgated narratives.¹⁴²

PROFESSOR FIRED FOR POLITICAL ACTIVITIES

On July 28, 2020, the University of Hong Kong terminated associate professor of law **Benny Tai Yiu-ting**.¹⁴³ In reaction, international observers criticized the termination as repression of academic freedom.¹⁴⁴ The university’s decision came shortly after the Chinese government’s Liaison Office in Hong Kong criticized Tai’s role in organizing non-official “primary election” ahead of the September Legislative Council election.¹⁴⁵ In particular, the Liaison Office made reference to Article 22 of the National Security Law on “subversion” and characterized the “primary” as an attempt to

manipulate the election.¹⁴⁶ In 2019, Tai was sentenced to one year and four months in prison on public nuisance charges for organizing a series of peaceful protests in 2014 (known as the “Umbrella Movement” or “Occupy Central”); he was later granted bail pending appeal.¹⁴⁷

Macau

Events of note concerning the Macao Special Administrative Region include the following:

- In March 2021, the executive committee of Macau’s public broadcaster Teledifusão de Macau (TDM) issued guidelines to reporters requiring them to promote patriotism and to withhold information or opinion inconsistent with government policies.¹⁴⁸ The guidelines further provided that noncompliance would lead to termination of employment.¹⁴⁹ Non-governmental organization Reporters Without Borders criticized the move as editorial interference and a violation of Macau residents’ right to access information.¹⁵⁰
- The Judiciary Police (PJ) was established in October 2020 to prevent and investigate crimes against national security.¹⁵¹ The Legislative Assembly granted PJ officers anonymity, drawing criticism that the agency would be authorized to operate as “secret police.”¹⁵² The government, however, argued that the legislation was intended to protect the personal safety of PJ officers.¹⁵³

Notes to Section VI—Developments in Hong Kong and Macau

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²Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, passed April 4, 1990, effective July 1, 1997.

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⁹Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, passed April 4, 1990, effective July 1, 1997, art. 18, Annex III.

¹⁰*Zhonghua Renmin Gongheguo Xianggang Tebie Xingzhengqu Weihu Guojia Anquan Fa* [Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region], passed and effective June 30, 2020, arts. 20–30. The prohibition on “separatism” in articles 20 and 21 has been translated elsewhere as “secession.”

¹¹*Zhonghua Renmin Gongheguo Xianggang Tebie Xingzhengqu Weihu Guojia Anquan Fa* [Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region], passed and effective June 30, 2020, art. 44.

¹²*Zhonghua Renmin Gongheguo Xianggang Tebie Xingzhengqu Weihu Guojia Anquan Fa* [Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region], passed and effective June 30, 2020, arts. 55–56.

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