VI. Developments in Hong Kong and Macau

Hong Kong

During the Commission’s 2014 reporting year, the Commission continued to observe developments that raised concerns about the state of democratic development, press freedom, and government transparency in Hong Kong. Hong Kong’s Basic Law guarantees freedom of speech, religion, and assembly, promises Hong Kong a “high degree of autonomy,” and affirms that the International Covenant on Civil and Political Rights (ICCPR) applies to Hong Kong.1 The Basic Law also states that the “ultimate aim” is the election by universal suffrage of Hong Kong’s Chief Executive (CE) and Legislative Council (LegCo).2 The CE is currently chosen by a 1,200-member Election Committee,3 largely consisting of members elected in functional constituencies made up of professionals, corporations, and trade and business interest groups;4 many functional constituencies reportedly have close ties to or are supportive of the Chinese government.5 Half the LegCo members are elected directly by voters and half by functional constituencies.6

UNIVERSAL SUFFRAGE AND AUTONOMY

Despite agreeing in principle to allow Hong Kong to elect the Chief Executive (CE) by universal suffrage in 2017, statements and actions by the Chinese government prompted concerns this past year that by controlling the CE nomination process, it would not allow genuinely free and fair elections. The Basic Law calls for electing the CE “by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.”7 The Hong Kong government has insisted that only a nominating committee similar to the current Election Committee8 can nominate the CE, and has claimed that “mainstream opinion” supports this view.9 Members of the pro-democratic opposition claimed the nominating process proposed by the Hong Kong and Chinese governments would deny voters a genuine choice in the election by “screening” out CE candidates unacceptable to the Chinese government.10 Instead, pro-democracy advocates pressed for allowing voters a more direct say in nominating CE candidates, for example, by directly electing part of the nominating committee11 or submitting signatures to nominate candidates.12

Statements and actions by Chinese and Hong Kong government officials regarding reform proposals continued to raise concerns that the central government will restrict Hong Kong elections. In March 2014, National People’s Congress Standing Committee (NPCSC) Chairman Zhang Dejiang reportedly warned that “Western-style democracy” in Hong Kong could produce “disastrous consequences.”13 The head of the State Council’s Hong Kong and Macau Affairs Office rejected the possibility of CE candidates who
“confront the central government” or do not “love the country [China].” In April 2014, the head of the Central Government Liaison Office, China’s official representative in Hong Kong, participated in a fundraiser for the largest pro-Beijing political party. In June 2014, the State Council Information Office released a White Paper detailing the Chinese government’s position that Hong Kong’s autonomy is “subject to the level of the central leadership’s authorization.” In a July 2014 report to the NPCSC, Chief Executive Leung Chun-ying wrote that “mainstream opinion” in Hong Kong supported a CE nomination process restricted to the nominating committee. Pro-democracy politicians and groups criticized the report as disregarding substantial pro-democratic viewpoints in Hong Kong.

On August 31, 2014, the NPCSC issued a decision on Hong Kong’s electoral reform that restricted the ability of candidates to freely run for Chief Executive (CE). The NPCSC decision limits power of nomination to a committee reportedly dominated by members supportive of the central government, a majority of whose votes are needed for nomination. Pro-democracy legislators and activists condemned the decision for failing to ensure “genuine” democracy, while some legal experts said the decision violated international standards on universal suffrage. All 27 pro-democracy LegCo members pledged to veto any electoral reform proposal that follows the NPCSC decision’s framework.

Various political and professional groups continued to criticize Chinese government interference in Hong Kong and press for universal suffrage in electing the CE. In June 2014, hundreds of lawyers held a rare silent protest against the State Council White Paper, claiming that, by requiring judges to “love the country,” the White Paper threatened the rule of law and judicial independence in Hong Kong. The Occupy Central movement held an unofficial referendum in June 2014 on several proposals for electoral reform that would have led to an open and liberal candidate nomination system; nearly 800,000 people reportedly voted in the referendum, despite a massive cyber-attack on the referendum’s online voting systems just before voting began. “Occupy” organizers planned to block traffic with civil disobedience protests in Hong Kong’s Central financial district as a last resort if the Hong Kong government presented an electoral reform proposal that does not comply with international standards. On July 1, the anniversary of Hong Kong’s handover from Great Britain to China, hundreds of thousands of people marched through downtown Hong Kong, calling for “genuine” democracy and protesting the Chinese government’s perceived increasing interference in Hong Kong. After the march, Hong Kong police arrested several hundred pro-democracy protesters at a sit-in in downtown Hong Kong; protesters criticized police for using “excessive force” in clearing the demonstration. On August 17, tens of thousands of people marched against Occupy Central; Hong Kong and international media reported that organizers bussed in some marchers from mainland China and paid them for their participation.
PRESS FREEDOM

Hong Kong journalists and media organizations reported continuing threats this past year to press freedom, citing violent attacks on individuals associated with the press, self-censorship among journalists, and pressure from the Hong Kong and central governments and mainland Chinese businesses. Hong Kong dropped from 58 to 61 out of 180 countries in Reporters Without Borders' 2014 World Press Freedom Index. Polls from 2013 and 2014 by Hong Kong University found that about half of respondents believed journalism in Hong Kong suffered from self-censorship. In January 2014, the owner of Ming Pao, an independent newspaper, abruptly replaced Kevin Lau Chun-to as chief editor. The following month, two men attacked and severely injured Lau with meat cleavers in public. In March 2014, four men assaulted two executives from a soon-to-be launched newspaper. Other cases of physical intimidation of media from recent years remain unresolved. In July 2014, pro-democracy news Web site House News abruptly ceased operations. Co-founder Tsoi Tung-ho cited a climate of fear, political pressure, and lack of advertising due to the site's criticism of the government as reasons for closing the site.

Several pro-democracy media organizations said that companies with ties to mainland China withdrew their advertising from Hong Kong publications, reportedly at the behest of Chinese and Hong Kong officials. More than half of Hong Kong's major media owners are reportedly members of the National People's Congress (NPC) or Chinese People's Political Consultative Conference (CPPCC). In February 2014, Commercial Radio Hong Kong fired a popular radio host known for criticizing the government; the radio host previously alleged that the Hong Kong government made her dismissal a condition for renewing the radio station's broadcasting license.

TRANSPARENCY

During this reporting year, the Commission observed that access to government and public organizations' records continued to be impeded by ineffective management and the government's inability to enforce compliance with its open information guidelines. Hong Kong's Office of the Ombudsman issued reports criticizing the lack of legislation governing public records and access to information. Hong Kong has no laws governing its public record archives and inadequate laws on access to information; additionally, there is no independent adjudicating agency nor are there penalties for not following the guidelines.

Macau

Unlike Hong Kong, Macau's Basic Law does not mention "universal suffrage," although it includes a provision ensuring the applicability of the International Covenant on Civil and Political Rights (ICCPR) in Macau. The Commission has not observed developments during the 2014 reporting year consistent with the UN Human Rights Committee's 2013 recommendation that Macau "set timelines for the transition to an electoral system based on uni-
versal and equal suffrage . . . .'' The Commission observed reports of self-censorship and restrictions on freedom of the press in contravention of the ICCPR.

POLITICAL FREEDOM

Macau’s September 15, 2013, Legislative Assembly elections were the first held since the electoral system was reformed in 2012. In that 2012 reform, the Legislative Assembly expanded by 4 members, 2 of whom are elected directly and 2 indirectly by functional constituencies, for a total of 33 members. In the September 2013 election, pro-democracy parties won 2 of 14 directly-elected seats, while the Chief Executive (CE) appointed 7 legislators, and functional constituencies, seen as pro-establishment and pro-Beijing, chose 12 legislators. Incumbent CE Fernando Chui Sai On won reelection on August 31, 2014; running unopposed, he received 380 of 400 possible votes in the Election Committee. The election was the first held since the 2012 electoral reform increased the Election Committee by 100 members to 400.

Several pro-democracy groups in Macau held an unofficial referendum in late August to gauge public opinion on universal suffrage in future Macau elections. The Chinese and Macau governments condemned the referendum as “invalid” and “illegal,” with National People’s Congress Standing Committee Chairman Zhang Dejiang saying that it “violates the Basic Law.” On August 24, Macau police detained five referendum organizers on suspicion of “aggravated disobedience,” including Jason Chao Teng-hei, president of the pro-democracy Open Macau Society. The Macau Office for Personal Data Protection said the referendum’s collection of voters’ official identification card numbers and phone numbers was “inherently illegitimate.” On August 29, Macau police detained two journalists and later named Chao as a suspect in the illegal use of Judiciary Police insignia in relation to the referendum. Chao accused the Macau government of “political persecution” for actions taken against the referendum and expressed fear for his safety.

FREEDOM OF EXPRESSION

The Commission observed continued reports of self-censorship by journalists and concern over government control of broadcast media. Although the government pledged to liberalize the telecommunications market, government-owned Teledifusão de Macau (TDM) retained a monopoly on broadcast television, while the Macau government and TDM together own 95 percent of the shares in Macau’s only cable television provider, Macau Cable TV.

Two cases this year raised concerns regarding freedom of expression in Macau after prominent university professors were dismissed. The rector of the University of Saint Joseph, a private Catholic school, said that professor Eric Sautède’s contract was not renewed due to Sautède’s pro-democracy political commentary. Sautède claimed that pressure from a Macau government education agency contributed in part to his firing. In August 2014, the University of Macau (UM) fired professor Bill Chou Kwok-ping, who also serves as vice president of the pro-democratic New Macau Association. Although UM claimed that Chou had “imposed” his po-
Chou alleged that the university fired him due to his "political activism." 68

CORRUPTION

Corruption and money laundering from mainland China in Macau's gambling industry continued to be sources of concern. Tens of billions of yuan reportedly are routed illegally through Macau each year. 69 In addition to the "junket" system, which reportedly arranges gambling credit and debt collection for wealthy gamblers, 70 gambling evaded Chinese currency-export restrictions by using state-backed UnionPay bank cards to make phony purchases and immediately return them in exchange for cash. 71 Amid reports that mobile point-of-sale terminals are brought to Macau from mainland China to facilitate transferring cash to gamblers, UnionPay announced after meeting with Macau authorities that it would take steps to fight illegal money transfers. 72 Following a May 2014 CCTV expose on mainland visitors abusing third-country transit visas to illegally extend stays in Macau, Macau's Public Security Police shortened the time allowed for mainland travelers holding transit visas to stay in Macau. 73
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, passed 4 April 90, effective 1 July 97, arts. 2 ("high degree of autonomy"), 27 (freedoms of speech and assembly), 32 (freedom of religion), 39 (applicability of ICCPR).

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

3 Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, passed 4 April 90, effective 1 July 97, art. 45, annex I, Instrument 2.


5 Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, passed 4 April 90, effective 1 July 97, art. 68; Tanna Chong, "Legco Election 2016: How a Handful of Voters Elect 30 Hong Kong Lawmakers," South China Morning Post, 6 February 14.

6 Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, passed 4 April 90, effective 1 July 97, art. 45.

7 CY Leung, Chief Executive of the Hong Kong Special Administrative Region, "Report by the Chief Executive of the Hong Kong Special Administrative Region to the Standing Committee of the National People's Congress on Whether There Is a Need To Amend the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region in 2017 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in 2016," 15 July 14, sec. 11(v); Chris Buckley and Alan Wong, "Hong Kong Leader Says 'Mainstream' Opposes Democracy Activists' Key Proposal," New York Times, 15 July 14; Carrie Lam, "The Rules for Hong Kong's 2017 Chief Executive Election," Wall Street Journal, 27 July 14.


9 Fanny Fung, "HK$13.8m Buys 'Successful Future' Calligraphy by Beijing's Top Representative in Hong Kong," South China Morning Post, 30 April 14.


12 State Council Information Office Chief Chief Executive Loving Our Country and Hong Kong is Basic Political Principle" [Guowuyuan gang'ao ban zhuren: teshou ai guo ai gang Hong Kong], People's Daily, 15 April 14. See also Gary Cheung, "Beijing 'Set To Take Hard Line on Hong Kong's 2017 Chief Executive Election,'" South China Morning Post, 14 August 14.

13 Fanny Fung, "HK$13.8m Buys 'Successful Future' Calligraphy by Beijing's Top Representative in Hong Kong," South China Morning Post, 17 April 14.

14 State Council Information Office, "White Paper on the Practice of 'One Country, Two Systems' in Hong Kong (Full Text)" ["Yiguo liangzhi" zai gang shijian baipishu (quanwen)], reprinted in Xinhua, 10 June 14; Hong Kong Information Services Department, "High Degree of Autonomy Assured: CE," 10 June 14; Chester Yung, "China Reminds Hong Kong of Its Control," Wall Street Journal, 10 June 14.

15 CY Leung, Chief Executive of the Hong Kong Special Administrative Region, "Report by the Chief Executive of the Hong Kong Special Administrative Region to the Standing Committee of the National People's Congress on Whether There Is a Need To Amend the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region in 2017 and for Forming the Legislative Council of the Hong Kong Special Administrative Region in 2016," 15 July 14, sec. 11(v); Chris Buckley and Alan Wong, "Hong Kong Leader Says Mainstream Opposes Democracy Activists' Key Proposal," New York Times, 15 July 14; Hong Kong's 2016 Chief Executive Election Reform Proposal, "Chief Executive Election Report," South China Morning Post, 17 July 14.


Gary Cheung, "Pro-Democracy Website House News Closes, Citing Political Pressure, Low Revenue," South China Morning Post, 27 February 14.


Committee to Protect Journalists, “Journalists in Hong Kong and Taiwan Battle Beijing’s Influence,” last visited 19 June 14; Asia Sentinel, “Hong Kong: China’s Obstreperous Adoptee,” 7 April 14.


Ibid.

Basic Law of the Macao Special Administrative Region of the People’s Republic of China, passed 31 March 99, effective 20 December 99, art. 40 (“... the provisions of the International Covenant on Civil and Political Rights [... as applied to Macao shall remain in force and shall be implemented through the laws of the Macao Special Administrative Region”); International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 25. Although Macau made a reservation to Article 25b of the ICCPR, which guarantees the rights “to vote and to be elected... by universal and equal suffrage...”, the UN Human Rights Committee urged Macau “to consider steps leading to withdrawing the reservation.” See UN Human Rights Committee, Concluding Observations on the Initial Report of Macao, China, Adopted by the Committee at its 107th Session (11-28 March 2013), CCPR/C/CHN-MAC/CO/1, 29 April 13, para. 15; UN Human Rights Committee, Concluding Observations on the Initial Report of Macao, China, Addendum, Information Received from Macao, China on Follow-up to the Concluding Observations, CCPR/C–CHN–MAC/CO/1/Add.1, 9 April 14, para. 1.


Beijing Gives Political Reform the Thumbs Up,” Macau Business, 2 July 12.


Campaign for Electoral College Members Kicks Off June 14,” Macau Daily Times, 4 June 14; “Oath of Fairness on CE Election,” Macau Daily Times, 1 April 14; Stuart Lau, “Macau’s Fernando Chui Re-Elected Chief Executive in Unopposed Poll,” South China Morning Post, 1 September 14.


60 International Federation of Journalists, “Political Motive Suggested in Arrest of Macau Journalists,” 3 September 14; Viviana Chan, “Jason Chao is Also Suspect in ‘Macau Concealers’ Case” [Jason chao também é suspeito no caso “macau concealers”], Jornal Tribuna de Macau, 2 September 14. As cause for the journalists’ detentions, the Judiciary Police cited the posting to Facebook of a photograph of a Judiciary Police (PJ) officer’s ID card (with the name not visible) in front of the civil referendum Web site and a statement from the unnamed PJ officer in support of the referendum.


65 Raquel Carvalho, “Hong Kong, Macau Academics Seek Meeting Over Firing of Eric Sautede,” South China Morning Post, 29 July 14.


69 Toh Han Shih and Niall Fraser, “Mainland Crackdown on Illegal Use of Payment Cards in Macau Casinos,” South China Morning Post, 8 May 14; Tony Lai, “Cards Fall Wrong Way,” Macau Business Daily, 9 May 14; Muhammad Cohen, “Junkets Keep Mainland Money Flowing Into Macau’s Coffers,” Forbes, 1 April 14.


