

## PART 4: HONG KONG<sup>210</sup>

### Development Toward Universal Suffrage?

In the Commission's 2007 Annual Report to Congress, the Commission examined Hong Kong's movement toward universal suffrage, as guaranteed under the Basic Law, Hong Kong's mini-constitution. Under articles 45 and 68 in the Basic Law, both the chief executive and the members of the Legislative Council are to be elected, with the "ultimate aim" of election by universal suffrage.

The Basic Law does not specify when universal suffrage will be implemented and, to date, Beijing has delayed its realization. In 2004, the National People's Congress Standing Committee in Beijing ruled that universal suffrage would not apply to the chief executive election in 2007 and the Legislative Council election in 2008. The next elections for chief executive and the Legislative Council will both occur in 2012.

In the 2007 election for chief executive, Donald Tsang, the incumbent, included in his campaign a promise to resolve the issue of universal suffrage by 2012. After his reelection, steps were made toward this promise when in July 2007 he issued a report, labeled a "Green Paper," detailing various proposals and options for implementing universal suffrage. The paper was opened to a period of public consultation that ended in October. Following the consultation period, in December Chief Executive Tsang submitted to the Standing Committee a "Report on the Public Consultation on Constitutional Development and on whether there is a need to amend 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 2012."<sup>211</sup>

The Standing Committee responded with the following decision: limited reforms to the electoral system for both the chief executive and Legislative Council may occur for elections in 2012, but these reforms may not fully implement universal suffrage. Any electoral reforms must occur according "... to the principle of gradual and orderly progress. . . ." <sup>212</sup> Also, functional constituencies representing business and industry interests will retain half the Legislative Council seats, and geographic-based popular representation will not increase.

According to the decision, universal suffrage may be implemented by 2017 for the chief executive election, and afterwards, as early as 2020, the Legislative Council may be elected by universal suffrage.<sup>213</sup> Before this occurs, two conditions must be met. Prior to 2017 and 2020, the Legislative Council must approve with a two-thirds majority an amended format for both elections. In addition, the chief executive and the Standing Committee in Beijing must approve the amendments.

Even after approving these gradual reforms, the Standing Committee limited future candidates for the chief executive to those who have been approved and nominated by a nominating committee<sup>214</sup>—which will allow Beijing to screen candidates and disqualify any who may oppose its policies or authority. During the visit to Hong Kong of a Commission delegation in April 2008, pro-democracy legislators argued that Beijing will wait to allow universal suffrage for the chief executive until officials there are persuaded that a pro-Beijing candidate will win the election.

While China's decision has been billed as a timetable for universal suffrage, it offers no guarantee. The ruling enables the Standing Committee to delay any movement toward universal suffrage if it concludes the reforms did not occur in an "orderly manner."<sup>215</sup> Pro-democracy legislators expressed their concerns to Commissioners that Chief Executive Tsang will propose electoral reforms that provide less than universal suffrage, and the pro-democracy Council members may feel compelled to accept them to prevent a public perception that the legislators are being obstinate. The Standing Committee could use instances of opposition to proposed reforms to rule that all reforms should be halted in the face of disorderly conduct. An analysis by the Economist Intelligence Unit concludes,

*The Hong Kong government and pro-Beijing blocs within the legislature will attempt to portray any criticism by the pro-democracy parties of their reform agenda as endangering the reform itself. Countering such perceptions, and taking pains to appear constructive, will be of critical importance to the pan-democrats, who suffered a fall in popularity after voting in 2005 against minor reforms that would have made the political system slightly more democratic.*<sup>216</sup>

Under these circumstances, the move toward universal suffrage has not been conclusively halted, but it has been delayed beyond 2012—a full 15 years after the British colony was returned to Chinese control. A timely transition to universal suffrage is in the interests of the Hong Kong people in pursuing human rights and democracy under the "one country, two systems" model that was created in 1997.

### **Legislative Council Elections**

Following the Standing Committee's ruling, Hong Kong prepared for its September 2008 Legislative Council elections. A total of 204 candidates vied for 30 seats representing Hong Kong's geographical areas and 30 seats representing functional constituencies. Election turnout—45 percent of registered voters—was lower than for previous Legislative Council elections. Emily Lau of the Frontier Party, and other pro-democracy advocates in Hong Kong, maintained that the Beijing and Hong Kong governments dissuaded people from participating. She stated that Beijing curbed media coverage of and advertising for the election so that it was "an election few people knew about."<sup>217</sup>

Despite the lower turnout, the pro-democratic candidates captured 19 out of 30 geographical seats (up from 18 seats in 2004) and four seats in the functional constituencies (down from seven seats in 2004).<sup>218</sup> This is sufficient, under Hong Kong law, to enable them to veto proposed government legislation.<sup>219</sup> The pro-Beijing Democratic Alliance for the Betterment of Hong Kong, widely considered the largest challenge to pan-democrats, won 10 seats (down from 12 seats in 2004).<sup>220</sup>

Political analysis following the election suggests that voters linked the Hong Kong economy's slowdown with Chief Executive Tsang's policies and therefore supported democratic candidates in their bid to make the Hong Kong government accountable for policy mistakes.<sup>221</sup> This analysis also indicates that voters care about the quality of governance in Hong Kong, especially as it relates to their livelihoods. For example, the League of Social Democrats, a pro-democracy party that aggressively opposes the Hong Kong government, increased its seats in the legislature from one to three as a result of courting strong grassroots support among residents who are not among Hong Kong's social or economic elite. Observers view this as "a warning sign to the government" that it will have to respond to the needs of everyday citizens.<sup>222</sup>

### **The Politicization of Entry into Hong Kong and Restricted Entry into the Mainland**

In August 2008, Hong Kong customs officials blocked the entry of Yang Jianli, a Chinese citizen and activist exiled to the United States, who was trying to enter Hong Kong with a valid Chinese passport. Yang was planning to participate in a human rights walk in Hong Kong and then visit Sichuan Province in mainland China to explore the possibility of building an elementary school in the area devastated by an earthquake earlier in 2008.<sup>223</sup> In the same month, Chinese leaders refused to authorize a visa to Wang Dan, a Chinese citizen and exiled dissident who participated in student-led protests in Tiananmen Square in 1989, to attend a forum organized by religious and human rights groups in Hong Kong.<sup>224</sup> At the time this Report was completed in October 2008, Hong Kong immigration officials have refused entry into Hong Kong of 14 American citizens, and most of these refusals occurred during the periods prior to the Olympic torch relay in Hong Kong and the Olympic Games in August.<sup>225</sup>

The refusal by Hong Kong customs officials to allow Yang Jianli to enter Hong Kong with a Chinese passport, and the refusal of Chinese consular officials to grant Wang Dan a visa to enter Hong Kong, represent challenges to the "one country, two systems" principle that purportedly grants Hong Kong substantial autonomy in conducting its economic and political affairs—in accord with the Basic Law and other laws and regulations subordinate to it. The Hong Kong government states that, under this system, "The courts continue to administer justice independently, while Hong Kong's own police, immigration, customs and excise, and anti-corruption officers have remained responsible for maintaining law and order in the [Special Administrative Region]."<sup>226</sup> However, the actions to bar Yang Jianli and Wang Dan raise concern that China may be

exercising undue influence—beyond the law applicable to Hong Kong—with respect to the Hong Kong government’s actions, particularly concerning freedom of movement and freedom of speech.

The successful implementation, preservation, and practical application of the “one country, two systems” model in Hong Kong—whether regarding when universal suffrage will be achieved or regarding the extent to which Hong Kong’s government is permitted to act autonomously to the extent provided in the Basic Law—should be and is of great interest and concern to the United States, and the Commission will continue to monitor the development of the relationship between China and Hong Kong, the protection of basic freedoms guaranteed by law, and the promotion of democracy. The way in which China honors its commitments that are manifest in the documents that provided for Hong Kong’s reversion to China’s control will be considered carefully by the United States as the U.S. relationship with China expands and deepens.

In addition to the refusal of entry into Hong Kong, China imposed visa restrictions limiting movement between Hong Kong and the mainland. The Ministry of Foreign Affairs of the People’s Republic of China claimed that these restrictions, beginning in March 2008, were intended to boost security prior to the Olympics.<sup>227</sup> Foreign visitors to China, including businesspeople who reside in Hong Kong, were restricted to single- or double-entry visas valid for up to three months. Applications for multiple entry visas, useful for facilitating business travel, were denied. Moreover, when applying for visas, applicants had to produce proof of advance hotel and return flight reservations, which often is impractical for businesspeople traveling on short notice.<sup>228</sup>

Commissioners learned during their visit to Hong Kong in April that these limitations caused significant logistical problems for American businesspeople working in Hong Kong. These visa restrictions directly affected businesspeople who travel regularly between Hong Kong and the mainland and hindered business operations and the development of business opportunities in China. In mid-October, China reportedly lifted these restrictions.<sup>229</sup>

### **U.S. Port Calls in Hong Kong**

In November 2007, China blocked the entry into the port of Hong Kong of the USS *Kitty Hawk* aircraft carrier battle group with 8,000 sailors after having previously approved the visit, and without providing an explanation.<sup>230</sup> The port call was scheduled over the Thanksgiving holiday, and many families of U.S. sailors had traveled there to celebrate the holiday. As suddenly as it had denied entry, Beijing reversed its decision, based on “humanitarian grounds,” given the number of sailors’ families waiting in Hong Kong, but by that time, the battle group already was under way to return to its home base in Japan.<sup>231</sup>

Even more troubling was Beijing’s denial of entry days before on November 20 to two U.S. Navy minesweepers, the USS *Patriot* and the USS *Guardian*, that were seeking shelter in Hong Kong’s harbor during a severe storm.<sup>232</sup> Admiral Timothy Keating, commander of the U.S. Pacific Command, criticized China for this action, saying that China violated a global “unwritten law” that all

countries provide safe harbor when sailors are in need.<sup>233</sup> After U.S. officials lodged a formal protest with China's government about these two incidents, Chinese state media reported that the denials of permission to enter the port occurred because the U.S. government proposed to sell to Taiwan upgrades to its Patriot anti-missile batteries,<sup>234</sup> but the Chinese government never provided a formal apology or official explanation for these actions. However, when the United States next sought permission for a naval ship to enter Hong Kong harbor, the permission was granted, and in January 2008 the U.S. Seventh (Pacific) Fleet's command and flagship, the USS *Blue Ridge*, made a port call.<sup>235</sup>

### Conclusions

- The United States maintains a keen interest in the development of democracy in Hong Kong and adherence to the “one country, two systems” principle permitting that development. The Commission remains concerned about China's willingness to honor its commitment to establishing universal suffrage in Hong Kong. Electoral reforms in Hong Kong that fall short of universal suffrage will damage confidence in the implementation of the “one country, two systems” principle.
- China's denial of entry to ships visiting Hong Kong is of great concern to the United States, especially when such denials are based on reactions to the internal policies of the United States. Denial of permission to a ship to enter Hong Kong harbor is even more disturbing when the ship is seeking safe harbor during a severe storm.
- Hong Kong immigration officials' refusal of entry for Chinese and American citizens during Olympic events suggests that a supposedly independent entry process has been influenced and politicized by the PRC government. Furthermore, Beijing's restrictions on visas for entry into China by American businesspeople living in Hong Kong placed stress on the business environment before and during the Olympics and hindered the growth of new business opportunities.