

SECTION 4: HONG KONG

Introduction

Hong Kong's relationship with mainland China is characterized in Hong Kong's constitution by the phrase "one country, two systems," whereby Hong Kong enjoys "a high degree of autonomy" in governing itself while still being an "unalienable" part of China.²⁷¹ Some developments in Hong Kong over the past year suggest that Beijing's influence in the city's affairs is growing. In the past year, Beijing enhanced its focus on Hong Kong's economy, utilizing it as a vehicle for the internationalization of China's currency, the renminbi (RMB). Mainland involvement in Hong Kong's political affairs was an issue of contention among Hong Kong policymakers and citizens throughout 2011. Furthermore, while Hong Kong citizens and press largely continue to enjoy freedom of expression and assembly, these rights were challenged at times by Hong Kong authorities, who are perceived to be acting out of deference to Beijing. On its trip to mainland China, the Commission stopped in Hong Kong to gain insight into these developments and their implications.

The Role of Hong Kong in China's Economic Policies

Hong Kong's unique status as an international financial center and trading hub affords it importance in China's economic policies. This was affirmed in 2011 when China released its 12th Five-Year Plan (2011–2015), which was the first five-year plan to include a chapter devoted specifically to Hong Kong and Macau.²⁷² The components of the 12th Five-Year Plan related to Hong Kong were laid out in a much-vaunted visit by China's Vice Premier Li Keqiang to Hong Kong in August 2011.* In his visit, the vice premier described Beijing's new policies and measures "designed to deepen the economic and financial cooperation between the mainland and Hong Kong": developing Hong Kong into an offshore RMB center, expanding access to China's markets, enhancing Hong Kong's standing as an international financial center, supporting Hong Kong's participation in international and regional economic cooperation, helping Hong Kong companies "go global," and enhancing Guangdong-Hong Kong-Macau economic cooperation, among other things.²⁷³

The most visible of these efforts, even before it was reiterated in the five-year plan, has been China's development of Hong Kong as a center for offshore RMB transactions and a launch pad for the

* Vice Premier Li will likely succeed current Premier Wen Jiabao in 2013. His visit was seen as an indication of this, because only the most senior officials get to make such high-profile trips to Hong Kong. Willy Lam, "Li Keqiang Meets Hong Kong," *Wall Street Journal*, August 15, 2011. <http://online.wsj.com/article/SB10001424053111903918104576503311098645364.html>; Goldman Sachs representative, meeting with the U.S.-China Economic and Security Review Commission, Hong Kong, August 15, 2011.

internationalization of China's currency. China has designated Hong Kong as a platform to conduct a limited amount of trading, investing, and lending in RMB as part of a national strategy gradually to internationalize its currency.²⁷⁴ (For more information on Beijing's currency globalization efforts, see chap. 1, sec. 1, of this Report.) Hong Kong's unique status as a global trade and finance center and the "freest economy in the world"²⁷⁵ makes it a useful vehicle for China to carry out this strategy. Moreover, Hong Kong provides a controlled setting for China to test out its policies, thanks to its economic and political ties to the mainland. Goldman Sachs representatives in Hong Kong told Commissioners that the city had been chosen to be China's offshore RMB market because Beijing would be able to fully control the terms of the market.²⁷⁶

To promote demand for the RMB as a currency for international transactions, China in 2011 announced a number of incentivizing policies in both the mainland and Hong Kong. According to Vice Premier Li, the mainland will expand RMB circulation channels between Hong Kong and the mainland, eventually allowing all provinces to conduct trade in Hong Kong using RMB; Hong Kong companies making direct investments on the mainland in RMB will be given additional support from the Chinese government; and more mainland-based financial institutions will be able to issue RMB-denominated bonds in Hong Kong. For example, in conjunction with Vice Premier Li's Hong Kong visit, China's Ministry of Finance issued 20 billion RMB (\$3.1 billion) in treasury bonds in Hong Kong, five billion RMB (\$786 million) of which were targeted at individuals, "giving more investment opportunities for Hong Kong residents," according to the vice premier. Larger RMB bond issuances are to follow in the future.²⁷⁷

Hong Kong business representatives, government officials, and journalists told Commissioners during several meetings in Hong Kong that the city's role as a vehicle for China's currency internationalization has been expanding and will expand in the future.²⁷⁸ One official noted that 550 billion RMB (\$86 billion) had accumulated in Hong Kong's bond markets by August 2011.²⁷⁹ RMB bank deposits in Hong Kong increased more than six-fold from May 2010 to August 2011.²⁸⁰

The emphasis on Hong Kong's economic development in the 12th Five-Year Plan, coupled with attention from high-level mainland officials on the city's economic issues, indicates that Beijing is sensitive to popular discontent over the city's growing economic woes.²⁸¹ Citizen discontent over economic management was widespread in 2011, with complaints focused on skyrocketing housing prices (and assumed collusion between political leaders and property tycoons in mainland China), rising unemployment, growing poverty, a widening wealth gap, and unpopular tax reforms, among other things.²⁸² During his August visit, the vice premier acknowledged some of these economic challenges but emphasized that China was committed to Hong Kong's development and expressed that he was "fully confident" about Hong Kong's economic future.²⁸³ A few months earlier, the head of the central government's Hong Kong and Macau Affairs Office visited Hong Kong and sounded a warning note on the city's economic management. He remarked that the city's government should allocate more resources

for low-cost housing in order to alleviate discontent over growing poverty and high housing costs. He warned that “housing [in Hong Kong] is both a social and economic issue, and if it’s not handled well, it becomes a political issue.”²⁸⁴

Beijing’s Influence in Hong Kong’s Political Affairs

Beijing’s creeping influence in Hong Kong’s political affairs continued to be a contentious issue in 2011. For instance, Beijing attained an unprecedented amount of influence in the city’s independent judicial system when Hong Kong’s highest court appealed to China’s National People’s Congress to interpret Hong Kong’s constitution, the Basic Law.²⁸⁵ This was the first time that Hong Kong courts had requested that Beijing interpret Hong Kong law, and some policymakers and outside analysts feared that this action would set a precedent for greater mainland influence in Hong Kong’s judiciary.²⁸⁶ The case, in which a Delaware investment fund filed a lawsuit against the Democratic Republic of Congo, hinged on the contested issue of whether sovereign states can be sued in Hong Kong’s courts. The case was referred by Hong Kong’s Court of Final Appeal to the National People’s Congress because it concerned foreign and diplomatic affairs, which, according to the Basic Law, are the responsibility of the central government. In August, the National People’s Congress ruled that Hong Kong law would follow the central government’s position of granting sovereign states immunity from being sued.²⁸⁷

Another high-profile example of growing mainland influence was a Hong Kong government proposal to introduce compulsory “moral and national education” for Hong Kong schoolchildren. The proposal was met with staunch opposition by citizens, educators, and some leaders, who denounced it as “political brainwashing” by Beijing, which had advocated patriotic education in Hong Kong since 2007.²⁸⁸ A public consultation period for the proposal lasted from May until August 2011, and a final curriculum guide is expected to be released by the Hong Kong Ministry of Education in February 2012.²⁸⁹

The divisive nature of Beijing’s influence in Hong Kong politics was highlighted following closed-door negotiations over Hong Kong’s electoral reforms between Beijing officials and Hong Kong’s Democratic Party in 2010. The reform amendments highlighted Beijing’s reluctance to allow significant democratic reforms to Hong Kong’s electoral process and exposed conflict within Hong Kong’s prodemocracy camp.²⁹⁰ The Basic Law states that the “ultimate aim” of Hong Kong’s leadership selection process is “universal suffrage.”²⁹¹ However, the city’s top political leaders, the chief executive and the Legislative Council, are currently selected by a largely undemocratic combination of government appointments, popular voting, and functional constituency voting.*²⁹² In response to ever-growing demands for universal suffrage from democratic groups, the People’s Republic of China (PRC) Standing Committee of the National People’s Congress in 2007 ruled that Hong Kong’s chief

*Functional constituencies are interest group voting blocs, mainly comprised of business and industry leaders. These groups, deemed vital to Hong Kong’s economic growth, are reliably pro-Beijing and generally support and reinforce the policy priorities of mainland China. Ngok Ma, “Hong Kong’s Democrats Divide,” *Journal of Democracy* 22:1 (January 2011): 55.

executive and Legislative Council could be elected by universal suffrage *at the earliest* in 2017 and 2020, respectively. The Standing Committee indicated that only minimal changes to electoral law could be made in the meantime.²⁹³

The administration of Hong Kong Chief Executive Donald Tsang (who was selected by a pro-Beijing election committee in Hong Kong) followed up on the Standing Committee's decision and offered amendments that Chief Executive Tsang said would democratize the electoral process. Prodemocracy members of the Legislative Council planned to veto the amendments, claiming they did not move swiftly enough toward universal suffrage. However, shortly before the July 2010 vote on the amendments, legislators from the Democratic Party, the flagship party of the democratic camp, completed closed-door negotiations with the Liaison Office of the Central People's Government* and arrived at a compromise: the Election Committee for selecting the chief executive would increase from 800 to 1,200 members, and ten directly elected seats would be added to the 60-member Legislative Council (previously, there had been 30 functional constituency seats and 30 directly elected seats).²⁹⁴ The amendments were approved by Hong Kong's Legislative Council and administration and will be in effect for the 2012 elections of Hong Kong's next chief executive and Legislative Council.

Hong Kong's administration hailed the deal between the Democratic Party and Beijing as "a victory of reason" and "a milestone in the city's democratic development."²⁹⁵ However, some within the democratic camp disapproved of the deal and criticized the Democratic Party for collaborating with Beijing to pass what they saw as a weak, pro-Beijing law that did not take sufficient steps toward universal suffrage.²⁹⁶ One founding Democratic Party legislator quit in protest immediately after the vote, and 30 party members resigned en masse just hours before a Democratic Party annual meeting in December 2010.²⁹⁷ Included were seven of the Democratic Party's 60 representatives in the District Councils, Hong Kong's "neighborhood" consultative bodies that have a role in choosing the chief executive and the Legislative Council.²⁹⁸

Divisions in the democratic camp became more evident as the various democratic groups prepared for November 2011 District Council elections. In past District Council elections, the democratic camp often coordinated its campaigns to ensure that multiple democratic candidates would not compete against each other for any single seat, in an effort to counter overwhelming numbers of pro-Beijing candidates.²⁹⁹ For the November 2011 elections, however, at least 36 candidates from other democratic groups registered to run against Democratic Party candidates as a punishment for the party's "betrayal" and cooperation with Beijing officials in 2010.³⁰⁰

Hong Kong's democratic camp has a history of being disenfranchised by pro-Beijing interests both in the mainland and

*The Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region acts as the central government's primary liaison with Hong Kong. The office facilitates economic, security, cultural, technological, and educational exchanges between Hong Kong and the mainland. Michael F. Martin, *Prospects for Democracy in Hong Kong: The 2012 Election Reforms* (Washington, DC: Congressional Research Service, February 2011), pp. 9–10. http://assets.opencrs.com/rpts/R40992_20110201.pdf.

in Hong Kong.³⁰¹ Interparty conflict could exacerbate the democrats' already limited influence to the benefit of pro-Beijing parties and their supporters in mainland China.³⁰² According to Chan Kin Man, director for the Centre for Civil Society Studies at the Chinese University of Hong Kong, the Chinese Communist Party (CCP) "would love to see a divided pro-democracy camp in Hong Kong so that it will not be forced to speed up constitutional reform in the SAR [Hong Kong Special Administrative Region], a process that might destabilize the political equilibrium on the mainland."³⁰³

Rights to Freedom of Expression and Assembly Challenged

Journalists, activists, and human rights lawyers reported that Hong Kong citizens' efforts to assert their rights to freedom of expression and association were met with increasing intolerance by Hong Kong authorities in 2011.*³⁰⁴ The Hong Kong Journalists Association noted in its 2011 Annual Report that freedom of expression and assembly established in the "one country, two systems" policy was often challenged by Hong Kong authorities who appeared to be undermining Hong Kong citizens' democratic rights in deference to mainland political sensitivities:

*There are now growing and disturbing signs that the one-country element is over-riding two-systems, and that could have far-reaching implications on Hong Kong's autonomy and one of its most fundamental rights—freedom of expression and press freedom.*³⁰⁵

Freedom of Press

Media organizations in Hong Kong issued complaints of interference in their reporting by Hong Kong authorities, especially in cases when they were covering politically sensitive topics related to mainland China.³⁰⁶ Police actively prevented reporters from covering large events and political protests and, in some cases, harmed journalists. During Hong Kong's annual July 1 protest,† police used pepper spray on 19 journalists covering the event, including three who were sprayed directly in the eyes.³⁰⁷ During Vice Premier Li's August visit, police blocked camera lenses and stationed the press area too far away to observe events.³⁰⁸ Such actions are violations of Hong Kong Police General Orders, which require officers to facilitate the work of news media as much as possible.³⁰⁹ Press restrictions during Vice Premier Li's visit prompted an outcry among media and citizens, including a protest of 300 journalists condemning police heavy-handedness and harassment of media.³¹⁰ A representative of the International Federation of Jour-

* Article 27 of Hong Kong's Basic Law guarantees Hong Kong citizens "freedom of speech, of the press, and of publication; freedom of association, of assembly, of procession and of demonstration." National People's Congress of the People's Republic of China, *The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* (Beijing, China: April 4, 1990). http://www.basiclaw.gov.hk/en/basiclawtext/images/basiclaw_full_text.pdf.

† Every year, on the anniversary of Hong Kong's handover to China from Britain on July 1, 1997, Hong Kong citizens participate in marches and demonstrations. The marches are often used as opportunities for citizens to voice grievances against the government, with participants numbering in the hundreds of thousands in some years. Kevin Drew, "Growing Discontent Seen In Annual Hong Kong Protest," *New York Times*, July 1, 2011. <http://www.nytimes.com/2011/07/02/world/asia/02iht-hong02.html?pagewanted=all>.

nalists told a Legislative Council panel that Hong Kong police were becoming more like China's police, who are known to routinely hassle journalists.³¹¹

Hong Kong's Basic Law guarantees freedom of the press and encourages independent reporting, but personnel changes in two Hong Kong news stations in 2011 prompted concerns over the editorial independence of the organizations. The government appointment of a veteran civil servant with no experience in public broadcasting as the chief editor of Radio Television Hong Kong was received with skepticism and concern by the station's staff and two journalism associations. These organizations pointed to potential conflicts between the new chief editor's government background and the role of the station in acting as a check on the government.³¹² In a similar situation at Hong Kong's Asia Television Limited station, a newly appointed news chief instructed journalists to "tune down" coverage of a Democratic Party protest over the resignation of the news chief's predecessors, which ostensibly occurred over an erroneous report on the death of former Chinese President Jiang Zemin. There was some speculation that the resignations were encouraged for political reasons.³¹³ The Hong Kong News Executives' Association as well as Democratic Party Vice Chairwoman Emily Lau were among the individuals and organizations expressing concern over the incident.³¹⁴

Self-censorship was reported to be a growing problem in 2011 as well. An annual Hong Kong University survey of the general population showed that a record number of Hong Kong citizens (over half of survey respondents) believe that Hong Kong's media practices self-censorship.³¹⁵ The survey also reported that the general credibility rating of the news media had dropped to its lowest level since 2003.³¹⁶ In a July 2011 meeting between Commissioners and Alan Leong, Hong Kong legislator and leader of the democratic Civic Party, Mr. Leong acknowledged that self-censorship, while difficult to measure, is a part of the history of Hong Kong's media and exists in Hong Kong reporting today as well.³¹⁷

One positive recent development in Hong Kong's media field has been the rise of social media and citizen reporting. According to the Hong Kong Journalists Association, such informal news outlets are useful in identifying and monitoring local corruption, especially in cases when representatives of the mass media are prevented from gaining access to sites or information.³¹⁸ In one case, a citizen media website reported extensively on an urban development project that residents of a nearby housing estate opposed, fearing that the project would stifle ventilation in the neighborhood. The website published an in-depth report detailing public records going back 30 years and chronicling how developers had exploited loopholes in urban planning laws to advance their projects.³¹⁹ In another case, more than 40,000 Hong Kong citizens used Facebook to report and protest the construction of a sprawling private estate on protected government land.³²⁰ The Hong Kong Journalists Association deemed these cases of citizen reporting encouraging, noting that "[w]hile the mainstream media face problems such as patriotic pressure and obstruction of government information, the new media are playing an increasingly important role in monitoring the government."³²¹

Publications from Hong Kong that Beijing might consider politically sensitive sometimes can be found in mainland China. In meetings with business leaders in Hong Kong, Commissioners were told that some editorially independent newspapers from Hong Kong have limited circulation in China, enabling independent reports on big events such as the fatal high-speed rail train crash in Wenzhou to be picked up in China.³²² Mr. Leong told Commissioners that a critical book about Premier Wen Jiabao, *China's Best Actor: Wen Jiabao*, is widely available at points of exit and entry in Hong Kong and that many mainland Chinese who visit Hong Kong purchase the book.³²³

Freedom of Assembly

In 2011, Hong Kong citizens continued their tradition of exercising their right to free assembly. The annual July 1 march, attended by 200,000 people, was the second-largest Hong Kong protest since the city was returned to China in 1997.³²⁴ An annual June 4 candlelight vigil in remembrance of the 1989 Tiananmen Square massacre also drew a near-record amount of participants. Police estimated that 77,000 attended the 2011 candlelight vigil, but event organizers estimated over 150,000 participants, which would make it the one of the city's largest June 4 vigils in 22 years.³²⁵ Large demonstrations against local and national government policies took place in March and June as well, with smaller protests occurring throughout the year.³²⁶ Mr. Leong told Commissioners that some participants at the larger events were visiting mainland Chinese, some of whom expressed that they wanted to participate in a "free society demonstration."³²⁷

Citizens, activists, and journalists reported several instances of police interference in protest activities in 2011. According to the Civil Human Rights Front, 179 people were arrested in Hong Kong protests in the first half of 2011, compared to just 53 arrests in 2010.³²⁸ The Hong Kong Journalists Association reported that police were particularly intolerant of protests staged near Beijing's Liaison Office.³²⁹ Police excess was also reported during Vice Premier Li's visit, when protesters gathered to voice concerns about human rights, among other things.³³⁰ At a Hong Kong University event attended by Vice Premier Li, police detained three protesting students, which may have constituted false imprisonment, according to Johannes Chan Man-mun, a dean at the university.³³¹ Hong Kong police have asserted that this claim is unfounded.³³² At another event associated with Vice Premier Li's visit, security officers reportedly dragged away and arrested a man wearing a shirt with the slogan "Vindicate June 4," a reference to the Tiananmen Square massacre.* According to Legislative Council member James To Kun-sun, police on duty during these demonstrations were trying to prevent Vice Premier Li from being embarrassed.³³³ After the incident, several lawmakers requested an investigation into police tactics during the visit, and Hong Kong Police Commissioner Andy Tsang was questioned in a Legislative Council session. Some

*Discussion of the June 4, 1989, Tiananmen Square massacre is prohibited on the mainland, but in Hong Kong the event is generally freely discussed and commemorated. BBC, "Tiananmen: Thousands in Hong Kong mark crackdown," June 4, 2011. <http://www.bbc.co.uk/news/world-asia-pacific-13658037>.

lawmakers and at least 1,000 citizens called for his resignation.³³⁴ A police review of security arrangements during the vice premier's visit was ongoing at the time of the publication of this Report.

Hong Kong police also have taken more subtle measures to obstruct protest activities. In an April protest opposing the arrest and detention of mainland dissident artist Ai Weiwei,* and again during the annual July 1 protest, police restricted access to protest venues.³³⁵ Mr. Leong indicated in his meeting with the Commission that police directed participants in the June 4 candlelight vigil to walk an unnecessarily long distance to reach the venue. Mr. Leong characterized this excessive police requirement as "sending a message to the Hong Kong public."³³⁶

Restriction of travel to Hong Kong was also a growing problem in 2011. The Hong Kong government was accused of catering to mainland political sensitivities when it denied visas to two prominent mainland dissidents ostensibly to prevent them from attending the funeral of Szeto Wah, a founder of Hong Kong's democracy movement.³³⁷ The two dissidents, Wang Dan and Wu'er Kaixi, live in exile in Taiwan. A democratic member of the Legislative Council lamented this action as indicative of the erosion of the "one country, two systems" policy.³³⁸

Travel from Hong Kong to the mainland continued to be restricted in 2011 as well. In an August 2011 letter to Vice Premier Li from Hong Kong's Democratic Party, Chairman Alfred Ho wrote, "For more than 20 years, many members of the Hong Kong pro-democracy movement have been banned from traveling to [the] Mainland. The freedom of travel to the Mainland is a fundamental right of all Chinese citizens and should not be deprived of."³³⁹

Implications for the United States

Chinese and Hong Kong policies to promote the gradual internationalization of the RMB are intended, among other things, to allow the RMB to develop into an alternate reserve currency to the U.S. dollar, which is currently the internationally preferred reserve currency. After the global financial crisis, Chinese policymakers indicated a desire to reduce reliance on the dollar and diversify away from U.S. Treasuries.³⁴⁰

Hong Kong law, especially as it relates to commercial activity, impacts U.S. and foreign interests operating in Hong Kong. In the case of the abovementioned court decision referred by Hong Kong's Court of Final Appeal to Beijing, a U.S. investment fund's lawsuit filed in Hong Kong was decided by China's National People's Congress. If Beijing becomes more active in Hong Kong's judicial affairs, cases like this may occur again.³⁴¹

Restrictions on Hong Kong's administrative autonomy and freedom of expression and assembly run counter to Hong Kong's Basic Law, as memorialized in the U.S. Hong Kong Policy Act of 1992, which expresses U.S. support for the maintenance of a "high degree

*Ai Weiwei, a mainland Chinese artist and political dissident, was arrested in April 2011 for suspected "economic crimes," although it is widely assumed that the government targeted him for political, not economic, reasons. He was detained for almost three months before being released on June 22, 2011. Edward Wong, "Dissident Chinese Artist is Released," *New York Times*, June 22, 2011. <http://www.nytimes.com/2011/06/23/world/asia/23artist.html?pagewanted=all>.

of autonomy” in Hong Kong’s self-governance and for human rights development and democratization in Hong Kong.³⁴²

Conclusions

- Hong Kong plays a central role in China’s policy goal of internationalizing its currency. In 2011, China introduced substantial new measures supporting Hong Kong’s status as China’s primary platform for RMB offshoring.
- Mainland involvement in Hong Kong’s political affairs was evident in 2011, prompting citizen discontent and conflict within Hong Kong’s democratic groups.
- Hong Kong continued to have a vibrant protest culture in 2011, with record amounts of participants in some annual protests. However, there were reports that police sometimes challenged Hong Kong citizens’ rights during protests, especially when protests targeted mainland China.
- Hong Kong’s mass media reported increased interference in their activities by Hong Kong authorities in 2011. Public perception of self-censorship in Hong Kong’s press peaked in 2011, and public opinion of press credibility fell to its lowest level in eight years.