

CHAPTER 5

HONG KONG'S GOVERNMENT EMBRACES AUTHORITARIANISM

Key Findings

- In the past year, the Chinese Communist Party (CCP)-controlled Hong Kong government's implementation of the National Security Law upended the city's social and political environment. The government now views peaceful political participation as inherently subversive, and the authorities are targeting many across a broad cross-section of the population under the new law.
- Changes to Hong Kong's elections and the composition of its legislature now ensure pro-Beijing lawmakers will always have a majority, turning the once competitive Legislative Council (LegCo) into a rubber-stamp parliament.
- In the year since the imposition of the National Security Law, Hong Kong experienced a net outflow of 87,100 permanent and nonpermanent residents. A new immigration bill that entered into force in August 2021 gives the Hong Kong government the power to block travel. The government now has the legal authority to enact "exit bans" or to prevent critics of the Hong Kong government or China's central government from entering the territory.
- Changes to Hong Kong's educational curricula under the National Security Law now require teachers to promote the CCP's interpretation of history, and authorities are using these new powers to fire them for unapproved speech. Educators are forced to distort reality and history to portray the Party in a positive light.
- Judges overseeing national security cases in Hong Kong are now chosen from a list compiled under the supervision of the territory's new national security apparatus, effectively stripping the Hong Kong judiciary of its former independence. The changes enable the Hong Kong government to ensure all national security cases are assigned to preferred progovernment judges, guaranteeing outcomes favorable to the government and the CCP.
- The National Security Law allows the Hong Kong government to curtail the city's freedoms with little notice or process. Authorities introduced strict film censorship rules overnight in June 2021, and independent and prodemocracy media organizations have been systematically dismantled. Prodemocracy

Chinese-language newspaper *Apple Daily* was shut down after the government froze its assets and arrested senior personnel, having previously arrested its owner. Remaining media organizations have lost key staff and resources, and in other cases mainland investors are acquiring control of publishers. The city can introduce comprehensive internet censorship similar to the Mainland's Great Firewall at any time.

- Strict implementation of the National Security Law is stripping Hong Kong of long-held advantages that made it a global financial center. While Beijing relies on Hong Kong to boost capital flows and innovation in the Guangdong-Hong Kong-Macau Greater Bay Area, foreign companies are now more likely to find it advantageous to operate elsewhere in Asia, including in mainland China. Changes diminishing corporate transparency and weakening rule of law endanger U.S. businesses in Hong Kong.
- Hong Kong's business environment is increasingly "Mainlandized," which is likely to increase as the city is integrated further into the Greater Bay Area. Chinese companies are growing their presence in Hong Kong as both the Chinese and Hong Kong governments build greater incentives for mainland immigration into the territory.

Recommendations

The Commission recommends:

- Congress amend the Hong Kong Autonomy Act to add to the contents of the annual report required by the act a determination of whether the Beijing-controlled Government of Hong Kong has violated freedom of emigration from Hong Kong. The report should assess whether the Government of Hong Kong has:
 - Denied Hong Kong residents' right or opportunity to emigrate;
 - Imposed more than a nominal tax on emigration or on the visas or other documents required for emigration, for any purpose or cause whatsoever; or
 - Made emigration contingent on receiving official approval that is not practicably possible to obtain or is otherwise obstructed by authorities.
- Congress amend section 421 of the U.S.-China Relations Act of 2000 to require the U.S. Trade Representative to include an assessment of Hong Kong's treatment as a separate customs territory in its annual report on China's compliance with commitments made in connection with its accession to the World Trade Organization (WTO). This additional section of the report should consider:
 - Hong Kong's compliance to its commitments under the WTO;
 - Whether mainland Chinese entities operating in Hong Kong are using the Special Administrative Region's status as a transshipment hub to circumvent U.S. duties on China;

- Whether Hong Kong “possesses full autonomy in the conduct of its external commercial relations” and if the United States should continue to recognize Hong Kong’s rights as a separate customs territory under the WTO pursuant to section 201 of the U.S.-Hong Kong Policy Act of 1992; and
- Whether the United States should apply tariffs and all other trade treatment to Hong Kong equivalent to that of the People’s Republic of China (PRC). The U.S. Trade Representative should consult the secretary of state’s determination of Hong Kong’s autonomy when making this recommendation to the president.
- Congress, in consideration of the plight of prodemocracy activists from the Hong Kong Special Administrative Region, should encourage the secretary of homeland security to exercise their authority under the Immigration and Nationality Act on the basis of both a “compelling emergency” and “urgent humanitarian reason[s]” to parole into the United States aliens who are residents of Hong Kong and who are applying for admission to the United States.
- Congress require the U.S. Department of Justice and the U.S. Department of Commerce to collect information from U.S. companies operating in Hong Kong concerning requests from the Government of Hong Kong for content takedowns, access to data, and law enforcement assistance. The departments shall report their findings to Congress every 180 days specifying:
 - The number of requests fulfilled and by which companies;
 - Where such requests involved user data; and
 - Which local laws the requests invoked.
- Congress direct the Department of Justice to require media outlets operating in the United States that are majority owned by the Government of the PRC or the Government of Hong Kong to register under the Foreign Agents Registration Act. Congress should also direct the U.S. Department of State to determine whether such outlets qualify as a foreign mission of the PRC.

Introduction

Guardrails designed to protect Hong Kong’s autonomy have been destroyed since 2020 when China approved a National Security Law for the territory in violation of its international commitment to respect Hong Kong’s high degree of autonomy. The law solidified the CCP’s control over Hong Kong’s government and judiciary, which the territory’s pro-Beijing government exploited to implement draconian policies silencing Hong Kong’s once robust civil society and prodemocracy movement. The Hong Kong government’s persecution of anyone deemed a political threat has effectively transformed the territory into a police state. Authorities hunt down anyone suspected of advocating for democracy or open political discourse in Hong Kong or interacting with foreign organizations and individuals. The changes to election laws mean the legislature can neither advocate for the interests of the Hong Kong people nor act as a check against the pro-Beijing Hong Kong government’s agenda.

Political tensions coupled with weak economic recovery from the novel coronavirus (COVID-19) pandemic have clouded the outlook for Hong Kong's economy. Many foreign businesses are taking a "wait and see" approach that may prove unsustainable as risks escalate. Foreign companies have introduced some new safeguards to weather perceived political sensitivities, while some have chosen to move out of the city for other opportunities in the Asia Pacific region, including in the Mainland. Hong Kong is no longer a necessary or even safe gateway into China for foreign firms.

This chapter begins by examining the People's Republic of China's (PRC) control of Hong Kong's governance, including through new electoral changes designed to ensure that critics of the CCP or of the Hong Kong government cannot win seats in the legislature. It then addresses the Hong Kong government's implementation of pro-Beijing "patriotic education," which the National Security Law has made possible after years of popular resistance, and the government's aggressive new attempts to control civil society, media, and the formerly independent judiciary. It also assesses the effects of Hong Kong's political changes on the city's business environment and the progress of the Greater Bay Area project that links Hong Kong with multiple mainland cities. Finally, it considers the implications of these developments for the United States. This chapter is based on consultations with U.S. government officials and nongovernmental experts, open source research and analysis, and findings from the Commission's September 2021 hearing.

Emergence of a Police State

Since implementing the National Security Law in June 2020, Hong Kong authorities have swiftly and dramatically upended the city's formerly free and open society. The Beijing-controlled Hong Kong government has repeatedly stressed the National Security Law's dictum that the central government's authority over Hong Kong must always take precedence over the city's limited autonomy and the rights and freedoms guaranteed by Hong Kong law.¹ The Hong Kong authorities have enthusiastically and zealously sought out violations of the National Security Law "to please Beijing," according to Michael Davis, global fellow at the Woodrow Wilson Center for International Scholars.² Mr. Davis testified at the Commission's September 2021 hearing that Hong Kong's rapid transformation since the National Security Law's implementation is an example of Beijing "bringing a form of government extremism to an open society."³ Angeli Datt, a Hong Kong expert and senior research analyst at Freedom House, testified, "Hong Kong is not dead, but the territory is nearly unrecognizable under the National Security Law."⁴

The introduction of the National Security Law destroyed the legal system that had prevailed in Hong Kong since 1997, rendering the rights enshrined in the Basic Law, Hong Kong's mini constitution, meaningless in practice. In promulgating the law and imposing absolute control over Hong Kong's affairs, Beijing created a "constitutional rupture" in Hong Kong's governance, according to Dennis Kwok, former Hong Kong legislator, and Elizabeth Donkervoort, expert on the rule of law at the American Bar Association.⁵ The fact that the National Security Law overrides Hong Kong's laws

subsumes Hong Kong's governance under the political interests of the CCP. In June 2021, at a forum co-organized by Beijing's Liaison Office in the territory to celebrate the CCP's centennial the following month, Liaison Office Director Luo Huining asserted that it is "imperative to uphold the [CCP's] leadership... [because it] is the true pioneer, leader, practitioner, and defender" of Hong Kong's governance system.⁶ He added that those who reject the CCP's leadership and work to end one-party rule in China pose "existential threats" to the foundations of Hong Kong's governance, underlining that multiparty governance is unacceptable.⁷

National Security Law Overrides Basic Law's Protection of Rights

Under the National Security Law, the authority of the central Chinese government in Beijing now takes precedence over the rights guaranteed by Hong Kong laws, despite the explicit assurances in the Basic Law that these rights and freedoms should be protected.⁸ Under this new normal of the central government's overt interference in Hong Kong's legal system via the National Security Law, Hong Kongers no longer possess key democratic rights:

Freedom of Speech: The National Security Law has criminalized speech that could be broadly interpreted as violating China's national security interests. At least four educators have been barred from teaching for life, including one who assigned study on a banned pro-independence political party. In July 2021, Hong Kong police arrested five members of a speech therapists' union who published a children's book that allegedly depicted activists as sheep and police as wolves.⁹

Freedom of Assembly: Prodemocracy advocates have been repeatedly prosecuted for participating in unauthorized protests and denied assemblies overall, with authorities bringing multiple charges in succession against peaceful activists.¹⁰ Since the start of the anti-extradition bill protests in 2019, the Hong Kong government has arrested more than 10,000 individuals and prosecuted at least 2,600 for protest-related activities, according to Samuel Chu, founder and former managing director of the Hong Kong Democracy Council.¹¹ The Hong Kong government now treats any dissent, including grassroots political organizations, as criminal.¹² Long established civil society groups have disbanded as a result of persecution by Hong Kong authorities and the imprisonment of key leaders.¹³

Right to a Fair Trial: Under the National Security Law, defendants are no longer guaranteed fair trials. They may only be granted bail if a judge decides they are likely not to continue committing vaguely defined crimes endangering national security.¹⁴ As of July 2021, only 12 of 56 individuals charged with crimes under the National Security Law have received bail.¹⁵ Judges have also denied some defendants in national security cases the right to a trial by jury, choosing instead to issue decisions directly, and they have moved cases to higher jurisdictions to avoid abiding by sentencing caps.¹⁶

Right to Representation: Prodemocracy candidates can no longer run for elected office, denying representation to Hong Kong res-

idents who believe the special administrative region (SAR) should preserve the limited degree of autonomy guaranteed by the Basic Law. Recent changes to election rules ensure only “patriotic” pro-CCP candidates can run for the LegCo, and directly elected district councilors can no longer participate in the committee that elects the city’s chief executive.¹⁷ Armed with the broad mandate of the National Security Law, the central government of the PRC and its allies in the Hong Kong government have quickly implemented policies designed to enforce support for the CCP and silence its critics, establishing a political environment that brooks no dissent. Ministry of State Security forces answering directly to the central government have expanded and made permanent their operations in Hong Kong, making clear that their ubiquitous presence is now a part of everyday life in the territory. In October 2020, the government began requiring all civil servants who joined the government on or after July 1, 2020, to swear a loyalty oath to the increasingly authoritarian Beijing-controlled Hong Kong government and to the PRC. In January 2021, the rule was extended retroactively to those who began their government employment before July 1, 2020, covering all 170,000 of the city’s civil servants.¹⁸ Refusing to take the oath bears significant consequences: in April 2021, authorities announced that 129 government employees who refused to sign the pledge would be fired.¹⁹

Retroactive Application despite Government’s Assurances

The National Security Law presents unique challenges to the rule of law by enabling prosecutors to penalize defendants for conduct that predates its implementation. Hong Kong Chief Executive Carrie Lam Yuet-ngor pledged in a June 2020 address to the UN Human Rights Council that the law would not be applied retroactively, but the Hong Kong government has in effect done so by using activity the National Security Law prohibits as a basis for prosecution under other laws.²⁰ Mr. Davis argued at the Commission’s hearing that authorities investigate suspects under the National Security Law on the basis that “all the things [they] did before the law was passed show what [their] views are.”²¹ For example, in July 2020 the Hong Kong government disqualified 12 LegCo candidates, citing activities that partially predated the National Security Law but arguably fell under its definitions of secession, subversion, and collusion with “foreign forces.”* Ms. Datt testified to the Commission that police cited *Apple Daily* articles written before 2020 as evidence of alleged collusion with foreign forces.²²

In order to prosecute activists on the basis of their now-illegal prodemocracy views, Hong Kong authorities use older laws to charge defendants for conduct that was not illegal before the National Security Law took effect.²³ In August 2021, authorities used

*Among other reasons for disqualifying these candidates, the government cited their “advocating or promoting Hong Kong independence, self-determination or changing the system of the HKSAR by supporting Hong Kong independence as an option for self-determination; soliciting intervention by foreign governments or political authorities in relation to the HKSAR’s affairs; [and] expressing an objection in principle to the enactment of the National Security Law by the Standing Committee of the National People’s Congress and its subsequent promulgation as a national law listed in Annex III to the [Basic Law].” Government of the Hong Kong SAR, *HKSAR Government Supports Returning Officers’ Decisions to Invalidate Certain Nominations for Legislative Council General Election*, July 30, 2020.

an older anticorruption ordinance to justify prosecuting a musician for a 2018 performance at a campaign rally.* In September 2020, authorities cited a colonial-era sedition law that had not been used in decades, but was technically still in effect, to charge a suspect for conduct that partially predated the National Security Law.²⁴ In addition to using this kind of retroactive prosecution, Hong Kong's Commissioner of Police, Raymond Siu, suggested in August 2021 that outright retroactive charges explicitly under the National Security Law itself were still possible, though the government has not yet pursued any.²⁵

United States Responds to Beijing's Interference in Hong Kong

The U.S. government views the Chinese government's interference in Hong Kong as "an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States," and since 2020 it has taken actions to both address these risks and punish officials deemed responsible.²⁶ These actions are consistent with changes in U.S. policy toward Hong Kong under the Hong Kong Autonomy Act, which mandates assessments of Hong Kong's autonomy. Such actions also align with Executive Order (EO) 13936, signed by then President Donald Trump in 2020, which declared a national emergency with respect to Hong Kong.²⁷ In July 2021, the Biden Administration formally extended the declaration of a national emergency for another year.²⁸

- In August 2020, U.S. Customs and Border Protection required that products shipped from Hong Kong be labeled with a "Made in China" designation.²⁹ In October 2020, the Hong Kong government brought a case to the WTO to oppose the U.S. government's "Made in China" labeling requirement.†³⁰
- In December 2020, the U.S. Department of the Treasury released a report mandated by the Hong Kong Autonomy Act of 2020 on foreign financial firms that transacted with foreign persons materially contributing to the erosion of Hong Kong's autonomy. The department did not find any institution that "knowingly conducted a significant transaction" with any of the foreign persons identified through EO 13936, but the report will be regularly updated.³¹
- In the same month, the Department of Commerce's Bureau of Industry and Security eliminated Hong Kong as a separate destination under the Export Administration Regulations. The removal means that for the purposes of export controls, the U.S. government classifies all exports, reexports, and in-country transfers to Hong Kong the same as the rest of China.³² The rule change followed a July 2020 elimination of licensing excep-

*See "Hong Kong Locks Up Dissidents and Rigs Elections" below for more on this incident. Independent Commission against Corruption, Hong Kong SAR, "Duo Charged with Providing Entertainment at 2018 LegCo By-Election," August 2, 2021.

†The case is still in its early stages, as the WTO formed a panel in April 2021 at Hong Kong's request and no action has been taken since. Brazil, Canada, China, the EU, India, Japan, South Korea, Norway, the Russian Federation, Singapore, Switzerland, Turkey, and Ukraine have reserved third-party rights in the case, meaning they have some substantial interest in the proceedings and have the right to comment on arguments of the complainant and respondent. World Trade Organization, "DSB597 United States—Origin Marking Requirement," April 29, 2021.

tions specific to the SAR. The bureau also added 23 new Hong Kong persons to its Entity List throughout 2021.³³

- In its 2020 *Annual Report for the Committee on Foreign Investment in the United States (CFIUS)*, the Treasury Department clarified that in accordance with EO 13936, all CFIUS transactions originating from Hong Kong after July 14, 2020, would be grouped with those originating from mainland China.³⁴ In 2020, U.S. foreign direct investment (FDI) to Hong Kong increased from the previous year by 3.4 percent to total \$92.5 billion, while Hong Kong FDI to the United States rose 8.5 percent from the previous year, reaching \$16.5 billion.³⁵
- In its March 2021 annual report pursuant to the United States-Hong Kong Policy Act of 1992, the Department of State sustained its determination that Hong Kong was no longer sufficiently autonomous to warrant special treatment.³⁶
- In July 2021, Treasury's Office of Foreign Assets Control added 30 Hong Kong persons to its Specially Designated Nationals and Blocked Persons List in accordance with EO 13936, making a total of 57 individuals.³⁷
- In July 2021, the Departments of State, Treasury, Commerce, and Homeland Security issued a joint business advisory, *Risks and Considerations for Businesses Operating in Hong Kong*. The advisory highlighted risks of the National Security Law, data privacy, transparency and access to information, and exposure to conflicting sanctions regimes between the United States and China.³⁸
- In August 2021, President Joe Biden issued a memorandum deferring for 18 months the enforced departure of most Hong Kong residents currently in the United States, which may number approximately 30,000, according to Samuel Chu.*³⁹ The memorandum was the first U.S. action granting extended stays to Hong Kong residents in light of the National Security Law.

U.S.-Hong Kong Trade an Outlier of Special Treatment

Despite the requirement that goods from Hong Kong be marked with a "Made in China" label, U.S. Customs and Border Protection continues to recognize Hong Kong as separate from China when assessing customs duties.⁴⁰ Hong Kong imports are therefore not subject to the Section 301 tariffs levied since 2018[†] that apply duties between 7.5 and 25 percent to more than \$550 billion in U.S. imports of Chinese goods.⁴¹ U.S. application of China-related Section 301 tariffs to Hong Kong could be considered a violation of U.S. obligations under the WTO.⁴²

* Information concerning how many of these 30,000 Hong Kong residents will actually benefit from deferred enforced departure is not publicly available.

† These tariffs were applied to Chinese goods imports based on the findings of the U.S. Trade Representative's Section 301 investigation, concluded in March 2018, into China's technology transfer, intellectual property theft, and other practices. U.S. Trade Representative, "Notice of Modification of Section 301 Action: China's Acts, Policies, and Practices Related to Technology Transfer, Intellectual Property, and Innovation," *Federal Register* 84: 169 (August 30, 2019).

U.S.-Hong Kong Trade an Outlier of Special Treatment— *Continued*

As of 1986, Hong Kong enjoys its own membership in the WTO and is currently considered a separate customs territory from China that “possesses full autonomy in the conduct of its external commercial relations.”⁴³ Application of China-related Section 301 tariffs would run counter to most-favored nation treatment under the WTO’s General Agreement on Tariffs and Trade.⁴⁴ At the same time, according to the U.S.-Hong Kong Policy Act of 1992, the United States may no longer recognize treaties or other international agreements between the United States and Hong Kong should the president determine that Hong Kong is “not legally competent to carry out its obligations under any such treaty.”⁴⁵ U.S. determination of Hong Kong’s legal competency has no direct effect on Hong Kong’s membership in the WTO; however, changes to Hong Kong’s autonomy over its commercial relations could impact its status as a separate customs territory.*⁴⁶

Hong Kong Locks Up Dissidents and Rigs Elections

Changes over the past year have not only made Hong Kong opposition candidates and activists ineligible to run for office but also subjected them to political persecution. The Hong Kong government has signaled that intending to run for office on a platform in opposition to policies the CCP has sanctioned is now tantamount to the crime of subversion. In January 2021, the Hong Kong Police Force (HKPF) arrested 53 former legislators and prodemocracy activists, accusing them of plotting to destabilize the government. The former legislators had allegedly planned to gain a majority in the LegCo and veto all bills tabled by the authorities, up to and including the city’s budget, to force the chief executive to resign. The Basic Law specifically allows LegCo to exercise oversight over Hong Kong’s executive branch by forcing the chief executive to resign in specific circumstances like this,[†] but since the National Security Law overrides the Basic Law, the government is now using it to prevent this oversight.⁴⁷

In light of mass resignations of opposition lawmakers in November 2020 and the subsequent arrests of dozens of political candidates in January 2021, opposition lawmakers and activists now have no legal means of advocating for their views. In July 2021, at least 170 of the city’s more than 400 district councilors resigned en masse to protest a new requirement to take a loyalty oath to the city.⁴⁸ In this environment, opponents of the regime or its policies are no

*Entities can become parties to the WTO contingent on “autonomy in commercial relations” rather than status as a single sovereign state. For instance, the EU is considered a separate customs territory from its 28 member states. Under the WTO, there are four “China” memberships where Taiwan, Macau, Hong Kong, and mainland China are each considered separate customs territories. Zeng Huaqun, “One China, Four WTO Memberships: Legal Grounds, Relations and Significance,” *Journal of World Investment and Trade* 8:5 (January 1, 2007): 671–690.

†Under article 52 of the Basic Law, one of several circumstances in which Hong Kong’s chief executive must resign is “when, after the Legislative Council is dissolved because it refuses to pass a budget or any other important bill, the new Legislative Council still refuses to pass the original bill in dispute.” Basic Law, Art. 52 (Government of the Hong Kong SAR of the PRC).

longer guaranteed legally protected activism, leading some to seek emigration and asylum overseas.

Convictions of multiple prodemocracy advocates for unauthorized assembly, including many of the city's well-known prodemocracy leaders, were an especially dire indicator that the Hong Kong government has no tolerance for opposition and criminalizes free speech. The government has also piled on multiple separate charges to secure serial convictions against dissidents. According to Mr. Chu, prosecutors have adopted a strategy of "working their way through the ladder of what they can do" to bring additional charges, with the goal of detaining people indefinitely.⁴⁹ In April 2021, a Hong Kong court handed down sentences for participating in unauthorized assemblies to many of the city's most prominent prodemocracy activists, including *Apple Daily* owner Jimmy Lai; rights lawyer Albert Ho; and former LegCo members Margaret Ng, Leung Kwok-hung, Leung Yiu-chung, Democratic Party founder Martin Lee, and union leader Lee Cheuk-yan, some of whom received multiple overlapping sentences.⁵⁰

In another case in August 2021, authorities charged Anthony Wong Yiu-ming, a musician, under the Elections (Corrupt and Illegal Conduct) Ordinance for having performed at a 2018 campaign rally for Au Nok-hin, a prior LegCo member.⁵¹ Hong Kong's Independent Commission Against Corruption asserted that Mr. Wong's provision of entertainment at the rally was "corrupt conduct at the election... to induce others to vote for the candidate," even though the election occurred eight days after the rally.⁵² Mr. Au is currently serving a ten-month prison sentence in connection with a 2019 protest and is facing charges connected to the January 2021 mass arrests.⁵³ As a result of these now routine uses of the law to punish democracy advocates, activists in Hong Kong, accustomed for years to advocating for full representation in a democracy that allowed such debate, are now treated like dissidents in mainland China, fighting for their civic freedoms at great risk. Pro-establishment legislator Alice Mak Mei-kuen expressed pride in Hong Kong's new normal, arguing in June 2021 that there "isn't any problem with a police state."⁵⁴

New Election Rules Prevent Prodemocrats from Running

New electoral rules designed to increase the CCP's already considerable control over Hong Kong's elections effectively turned LegCo into a Mainland-style rubber-stamp legislature. In March, China's National People's Congress approved new rules designed to ensure that those who govern Hong Kong are "patriots" who "love China," according to Chinese state media.⁵⁵ The rules ensure that prodemocratic legislators, or pandemocrats, will never be able to get elected.⁵⁶ Chinese state media compared the new rules, which are clearly intended to subvert Hong Kong's democracy, to legitimate election oversight in democracies.⁵⁷ Central government officials falsely equating any criticism of the Chinese government with being "anti-China" claimed these rules are necessary to prevent "anti-China, destabilizing elements" and "radical localists" from exploiting loopholes to take power in Hong Kong and obstruct governance.⁵⁸

Hong Kong's electoral changes both increase the overall number of decision-makers loyal to the central government and make it im-

possible for peaceful critics of the CCP to run for office. The new rules, which will take effect in the December 2021 LegCo elections, mean the basic operations of LegCo now fall under the central government's national security interests. They expand LegCo from 70 members—35 of whom are elected by popular vote once every four years—to 90, with only 20 directly elected members.⁵⁹ They also enlarge the Election Committee, which chooses the city's chief executive, from 1,200 to 1,500 and further pack it with pro-Beijing stakeholders. The rules remove from the election committee the six LegCo seats derived from the District Council and the 117 District Council seats. Until the July 2021 mass resignations, prodemocracy councilors held almost 90 percent of the District Council seats, following record voter turnout in the 2019 elections.⁶⁰

Furthermore, a new vetting committee comprising pro-Beijing Hong Kong officials* will work with the Committee for Safeguarding National Security, which oversees Hong Kong's security affairs without judicial review or public transparency, to approve all candidates for public office.†⁶¹ Since the Committee for Safeguarding National Security is “under the supervision of and accountable to” China's State Council, ultimately the central government in Beijing has a deciding say in approving candidates for office in Hong Kong.⁶²

Immigration Bill Grants Broad New Powers Blocking Free Movement

Prodemocracy advocates fear that a new immigration bill granting the Hong Kong government broad powers to block travel in and out of the territory may be used to introduce Mainland-style arbitrary extrajudicial “exit bans” and bar entry to those the government deems a threat.⁶³ Prior to passing this law, the Hong Kong government had already prevented some Hong Kong activists from leaving the territory, such as the so-called “Hong Kong 12” who tried to flee by boat to Taiwan in 2020.‡ The new law grants the power to block travel for any reason, interfering with rights of free movement guaranteed by Hong Kong's Basic Law and Bill of Rights.⁶⁴

* Chief Secretary John Lee Ka-chiu will lead the committee, which will include Constitution Affairs head Erick Tsang Kwok-wai, Security Secretary Chris Tang Ping-keung, Home Affairs Minister Caspar Tsui Ying-wai, former Justice Secretary Elsie Leung Oi-sie, former LegCo President Rita Fan Hsu Lai-tai, and former Chinese University of Hong Kong Vice-Chancellor Lawrence Lau Juen-ye. Lee, Tsang, and Tang are currently subject to U.S. sanctions for their roles in undermining Hong Kong's autonomy. Lilian Cheng and Tony Cheung, “Hong Kong Chief Secretary John Lee to Lead Vetting Committee for Would-Be Election Candidates,” *South China Morning Post*, July 6, 2021; U.S. Department of the Treasury, *Treasury Sanctions Individuals for Undermining Hong Kong's Autonomy*, August 7, 2020.

† The Committee for Safeguarding National Security, established by the National Security Law and directly under the supervision of the central government, is the chief interagency body in Hong Kong responsible for overseeing all national security affairs. Under article 13 of the law, the committee's members comprise the chief executive, the chief secretary for administration, the financial secretary, the secretary for justice, the secretary for security, the commissioner of police, the head of the HKPF's newly created national security department, the director of immigration, the commissioner of customs and excise, and the director of the chief executive's office. The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (China), 2020, 6.

‡ In August 2020, the China Coast Guard intercepted 12 Hong Kong residents attempting to flee to Taiwan by boat. Two who were minors were sent back to Hong Kong, and the other ten were sentenced in December 2020 to between seven months and three years in jail on charges of illegal border crossing. In January 2021, Hong Kong authorities arrested 11 more people, including a district councilor and the mother of a pro-democracy activist, for suspected crimes related to assisting the initial group's planned flight. *Deutsche Welle*, “Police Make New Arrests over ‘Hong Kong 12’ Flee-Attempt,” January 14, 2021.

The legislation, which entered into force on August 1, 2021, makes information available to Hong Kong's Director of Immigration concerning all passengers and crew on any carriers* crossing the Hong Kong border and empowers the director to prohibit the entry or exit of any passenger or crew member.⁶⁵

Hong Kong Security Secretary John Lee attempted to provide a veneer of legality to the new powers, arguing they are necessary to respond to increasing numbers of illegal immigrants and potentially fraudulent asylum applicants.⁶⁶ According to the Hong Kong Bar Association, however, it is not clear what deficiency the new “extraordinary” powers are designed to address, and the bill includes no safeguards against abuse.⁶⁷ Furthermore, the new law could be used to require personnel outside Hong Kong, such as airport ground staff, to prevent prohibited passengers from boarding Hong Kong-bound aircraft.†

Status of Hong Kong Asylum Seekers

Since the introduction of Hong Kong's National Security Law in 2020, Taiwan has sharply increased residence permits granted to Hong Kong residents, despite the great risk of provoking Beijing. In June 2020, Taiwan's Mainland Affairs Council created the Taiwan-Hong Kong Service Exchange Center to assist Hong Kong residents seeking refuge in Taiwan.⁶⁸ In 2020, the Taiwan government issued 10,813 residence permits and 1,576 permanent residence permits to Hong Kong residents, almost double the number of residence permits issued in 2019.⁶⁹ From January to July 2021, the Taiwan government issued 5,482 residence permits, meaning 2021's total may exceed the total for 2020.⁷⁰ In May 2021, despite Taipei's attempt to avoid overtly antagonizing the Chinese government, Hong Kong closed its decade-old de facto consulate in Taiwan in retaliation for Taiwan's “provocative acts” supporting asylum seekers from Hong Kong.⁷¹

The number of residence permits Taiwan granted to Hong Kongers has been high relative to the island's population in comparison with measures other countries have adopted. For example, in Q1 2021, Taipei granted residency to 3,011 Hong Kongers, or about one per every 7,830 Taiwan residents.⁷² In the same period, under a new immigration scheme for British National (Overseas) passport holders, the United Kingdom (UK) granted 5,600 visas outside the country and 1,600 visas inside the country, or a total of about one per every 9,400 UK residents, with Hong Kong passport holders composing 86 percent of the total.‡ In Q2

*The legislation defines “carrier” as “an aircraft or any other means of transportation” determined by regulation, and thus it could affect travel by bus, train, or hired car, the other main methods of crossing the border currently available. The regulations could likely affect pedestrian travel if necessary. According to the Hong Kong Transportation Department, there are five road-based crossings between Hong Kong and Shenzhen, though it is not clear whether any of them allow crossing by foot. Hong Kong Transportation Department, *Land-Based Cross Boundary Transport*, May 12, 2021; Immigration (Amendment) Ordinance 2021 (Hong Kong), 2021, A101.

†According to the relevant provision of the law, regulations “may require the carrying out of any act by a person (wherever the person may be) and regulate any act or matter... wholly or partly outside Hong Kong.” Immigration (Amendment) Ordinance 2021 (Hong Kong), 2021, A101.

‡British Nationals (Overseas) are Commonwealth citizens but not British citizens. On January 31, 2021, the UK activated a new immigration scheme to allow British National (Overseas) passport holders or those eligible for one—which include those born in Hong Kong before the

Status of Hong Kong Asylum Seekers—*Continued*

of 2021, the number of visas granted under this scheme sharply increased to 29,400 out-of-country and 10,700 in-country, with Hong Kong passport holders composing 68 percent of the total.⁷³ As of January 2021, under a new immigration scheme, Australia had granted five-year extensions to about 3,000 out of 10,000 eligible temporary skilled, graduate, and student visa holders from Hong Kong, or about one per every 8,450 Australian residents.⁷⁴ As of May 2021, almost 6,000 Hong Kong residents had applied for a similar Canadian visa program, though it is not clear how many have succeeded.⁷⁵ In addition to these new programs, Australia, the UK, and Canada have respectively accepted 305, 121, and 21 asylum applications from Hong Kongers since the 2019 protests.⁷⁶

Hong Kong Government Flaunts New Control over Society

Hong Kong observed its first National Security Education Day on April 15, 2021, organized by the territory's new Committee for Safeguarding National Security.⁷⁷ The day's activities involved different branches of Hong Kong's security services and featured a live demonstration of a dramatized counterterrorism operation. The activities prioritized engagement with Hong Kong's youth to help them "form correct values and national identity," according to one school principal.⁷⁸ Then HKPF Commissioner Chris Tang Ping-keung* argued the outreach was necessary because subversive foreign forces were deliberately targeting young people in Hong Kong to "plant anti-China ideas" in their hearts and "ignite... hatred for their government."⁷⁹ More than half of the attendees at these events were connected to Hong Kong's disciplined services,† however, indicating a lack of genuine interest among the public.⁸⁰

The day's activities also saw specially trained members of Hong Kong's disciplined services perform the "goose step" marching style used in the Mainland, a new marker of Beijing's success in impressing a more authoritarian culture upon Hong Kong's security services. The central government has previously attempted to pressure Hong Kong's youth cadet organizations to adopt the goose step, but most of these organizations have resisted out of a preference to continue expressing British heritage rather than mainland China's culture.‡ According to the *South China Morning Post*, People's Libera-

territory returned to the People's Republic of China in July 1997—to live, work, and study in the United Kingdom. Mainland Affairs Council, *Hong Kong and Macao Residents Granted Residence & Permanent Residence in Taiwan*, 2021; Home Office of the UK, *How Many People Come to the UK Each Year (Including Visitors)?* June 18, 2021.

*Tang became Hong Kong's secretary for security on June 25, 2021. Lilian Cheng and Tony Cheung, "Hong Kong Security Minister John Lee Promoted to Chief Secretary, Police Head Chris Tang Fills Cabinet Post in Move Reflecting Focus on Law and Order," *South China Morning Post*, June 25, 2021.

†According to Xinhua, the five disciplined services that performed the goose step during their open day events included the HKPF, the Fire Services, the Correctional Services, Customs and Excise, and Immigration. Xinhua, "Feature: Hong Kong Police March in Chinese-Style Goose-Stepping on National Security Education Day," April 15, 2021.

‡In 2018, Hong Kong newspaper *Ming Pao* reported that the central government's Hong Kong liaison office asked representatives from seven uniformed youth groups to adopt the Chinese goose step during that year's Bauhinia Square flag-raising ceremony commemorating the May Fourth Movement. Thirteen out of 14 youth groups chose to keep using the British marching style

tion Army personnel have trained Hong Kong Police College officers in the goose step ahead of the 2022 parade marking the 25th anniversary of Hong Kong's 1997 handover from the UK.⁸¹ Then HKPF Commissioner Tang appeared to favorably associate the militaristic display with the Mainland when he praised the officers' April 15 demonstration, saying it showed their "pride of being Chinese."⁸²

Forced Nationalism and an Orwellian School System

Hong Kong authorities have ordered sweeping revisions to educational curricula to promote national security, infusing nationalism and revisionist history into even seemingly apolitical topics. These revisions mark a victory for the Hong Kong government in its years-long campaign to impose "patriotic education" to increase popular support for the CCP.* In February 2021, Hong Kong's Education Bureau issued new guidelines on promoting national security education in accordance with article 10 of the National Security Law.⁸³ A government circular, which argued national security education is "part of, and inseparable from, national education," called for universities to develop in students "a sense of belonging to the country, an affection for the Chinese people, a sense of national identity... and a sense of responsibility for safeguarding national security."⁸⁴

According to Reuters, the central government's plan to bring Hong Kong more politically in line with the rest of China amounts to an attempted "societal overhaul" for Hong Kong.⁸⁵ The guidelines alter curricula to fit a nationalistic narrative and affect students beginning at age six and continuing through university, including students at some international schools. For example, the geography curriculum framework for middle school through high school calls for teaching that "the South China Sea islands and related maritime areas... have been a part of China's territory since ancient times."⁸⁶ The biology curriculum framework stresses the central and Hong Kong governments' successful protection of the country during the COVID-19 pandemic.⁸⁷

The curricula changes require educators to actively promote the CCP's concept of national security in addition to censoring prohib-

that year because it reflected their culture and traditions, while the Hong Kong Army Cadets Association, which has used the Chinese style since its founding in 2015, continued to do so. However, in March 2019, after the pro-Beijing Committee of Youth Activities organized a training for some of the groups at the PLA's Fanling barracks and then requested that cadet groups adopt the goose step to "show respect to China," four out of 16 total groups did so in that year's May Fourth parade. Naomi Ng, "Hong Kong Cadet Groups Switch from British Military Drills to Chinese Goose Stepping at May Fourth Event in Wan Chai—but Who Gave the Marching Orders?" *South China Morning Post*, May 4, 2019; *Ming Pao*, "Uniformed Group: Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region Urges Adoption of Chinese-Style Marching, Causes Worry about 'Decolonization.' Youth Army Federation's Chen Zhengbin: Only Offered Assistance, Not Requested" (制服團體：中聯辦促轉中式步操 惹「去殖化」憂慮 青少年軍陳振彬：只協助非要求), February 9, 2018. Translation; *South China Morning Post*, "Hong Kong Youth Groups Reject Chinese-Style Marching Drills," May 7, 2018.

*In 2012, the Hong Kong government attempted to implement patriotic education but withdrew its plans in the face of widespread opposition. In 2019, as historic numbers of prodemocracy activists protested in what many felt was a last stand against the central government's encroachment in Hong Kong, Chinese officials resolved to implement patriotic education in the territory. Shen Chunyao, director of the Legislative Affairs Commission of the National People's Congress Standing Committee, said in October 2019 that the CCP must "strengthen national education for Hong Kong... people, especially civil servants and youth... to boost their national consciousness and patriotic spirit." Anna Fifield, "China Thinks 'Patriotic Education' Built a Loyal Generation. But in Hong Kong? Not So Fast," *Washington Post*, November 29, 2019; U.S.-China Economic and Security Review Commission, *2019 Annual Report to Congress*, November 2019, 481; U.S.-China Economic and Security Review Commission, *2018 Annual Report to Congress*, November 2018, 387.

ited acts, creating a culture of fear and distrust between educators and students.⁸⁸ Mr. Davis testified to the Commission that the changes in Hong Kong's academic culture are having a "profound impact" and could cause an "enormous" loss to the quality of "education [and research] in Asia."⁸⁹ In this climate, according to one teacher quoted by the *Financial Times*, it has become necessary to "stop teaching reality... to avoid violating the rules."⁹⁰ The Hong Kong Education Bureau ordered schools to prevent "political or other illegal activities" in their institutions, which resulted in the firings of some outspoken professors.⁹¹ In October 2020, an educator was barred from teaching for life after allegedly assigning students to study the pro-independence Hong Kong National Party.⁹² As of April 2021, according to the *South China Morning Post*, at least four teachers had been deregistered from the profession for life for political reasons, including one visual arts teacher who had posted cartoons online satirizing Hong Kong's authorities.⁹³

Hong Kong authorities are now openly hostile to student unions, which they view as encouraging opposition to the government, and university administrations have begun to constrain their operations. In addition to punishing students for political activities such as participating in prodemocracy protests and even mourning a student who fell to his death during a protest in 2019, university administrators in some institutions have impeded student unions from collecting dues.⁹⁴ After Hong Kong University's student union passed a motion in July 2021 that authorities claimed glorified violence, the university derecognized the union even though those responsible for the motion apologized and resigned.⁹⁵ Officers from the HKPF's national security unit cordoned off the offices of the student union and seized documents.⁹⁶ The university's decision to cut ties with the student union caused at least one lecturer to resign in protest.⁹⁷ In light of the government and administrators' punitive approach to student unions, one student union leader at Lingnan University, Yanny Chan, told the *New York Times* that unions now feel like they are "just waiting to die."⁹⁸

Some teachers described policy changes introduced in 2020, such as the censorship of protest slogans, references to separation of powers, and illustrations of protesters, as reminiscent of China's Cultural Revolution.⁹⁹ The 95,000-member Professional Teachers' Union, once the biggest single-industry union in the city, was forced to disband in August 2021. Chinese state media and Hong Kong officials, respectively, had accused it of being a "poisonous tumor" and "dragging schools into politics," and state media continued to urge further punitive actions against it.¹⁰⁰ Fearful of losing their jobs, Hong Kong teachers must now self-censor in a way that would have been unthinkable prior to the National Security Law. Overall, according to Tin Fong-Chak, then a vice president of the Hong Kong Professional Teachers' Union, the new policies are intended to control everything that happens in schools and will "destroy the teacher-student relationship."¹⁰¹ The mandate to actively promote the National Security Law now permeates all stages of personnel selection and management at all levels in universities.¹⁰²

Officials have signaled that complying with the new rules could affect universities' funding, emphasizing the requirement to warn

students about “foreign interference” and train faculty in national security education. Publicly funded universities are especially vulnerable to this pressure to step up national security training. In March, Hong Kong’s University Grants Committee, which supervises all publicly funded institutions, reportedly warned universities that increased funding could be tied to implementation of compulsory education on the National Security Law.¹⁰³ In April, the new president of the government-run Open University of Hong Kong, Paul Lam Kwan-sing, suggested adding national security education to the mandatory curriculum, following earlier comments by his predecessor suggesting the city lacked such education.¹⁰⁴ In June 2021, Chief Executive Lam claimed external forces had “penetrated” academic institutions, describing a recent study that paid students to count turnout in prodemocracy protests as allegedly incentivizing participation in protests.¹⁰⁵ She called on university administrators to ensure their students are not “brainwashed” or “indoctrinated” by external forces, portraying academic inquiry into Hong Kong’s protests as inherently subversive.¹⁰⁶

Hong Kong Authorities Crush Civil Society and Media

In 2021, Hong Kong authorities interfered with peaceful civil society activities, demonstrating a Mainland-style “rule by law” approach in which the law is merely a means to the political end of suppressing dissent. In April, the Hong Kong police launched an inquiry into the Civil Human Rights Front, a group known for organizing the city’s annual Tiananmen Massacre vigil, after the *Global Times* claimed the group may be shut down due to suspicions of receiving foreign funding.¹⁰⁷ The police cited the group’s alleged failure to register under the 110-year-old Societies Ordinance, which prohibits secret societies such as Triad gangs,* and ordered it to submit 15 years’ worth of financial information within nine days.¹⁰⁸ The group’s organizer, Figo Chan Ho-wung, denied having received foreign funds and refused to cooperate with the police on principle, claiming the group’s operations have been legal under the Basic Law and that in the past even pro-Beijing former Chief Executive C.Y. Leung described the group as “friends.”¹⁰⁹ Mr. Chan was sentenced to 18 months in prison in May 2021 along with others over his participation in the October 2019 protest, and the Civil Human Rights Front disbanded in August.¹¹⁰ The sudden hostility toward the group in light of the changed political situation, according to Mr. Chan, demonstrates the government’s willingness to use any excuse to target an organization or person it has decided to condemn.¹¹¹

Authorities in Hong Kong are also increasing scrutiny over charities. In September 2021, the government amended the tax guide to remove exemptions for charitable organizations whose activities might be deemed contrary to national security.¹¹² Christopher Hui,

*Triads are organized criminal groups active in Greater China and in Chinese communities around the world. Various Chinese governments have enlisted these gangs, many of which trace their origins to Qing dynasty-era secret societies and trade associations, to carry out violence against political opponents. For example, in 2014 during the Occupy Hong Kong protests, as many as 200 suspected Triad members attacked demonstrators and tried to stir up violence to discredit them, and in July 2019, a mob of suspected Triad members assaulted protesters and bystanders at Yuen Long, injuring at least 45 people. U.S.-China Economic and Security Review Commission, *2019 Annual Report to Congress*, November 2019, 494; Austin Ramzy, “What Are the Triads, and What Is Their History of Violence?” *New York Times*, July 24, 2019.

secretary for Hong Kong's Financial Services and Treasury Bureau, wrote that the government "must prevent people with ulterior motives from using the name of charity to actually endanger national security."¹¹³ With the amendment of the tax guide, Secretary Hui also announced that the Inland Revenue Department will perform comprehensive reviews to determine whether an organization "participate[s] in or use[s] its resources to support or promote activities that are not conducive to national security."¹¹⁴ Two groups ceased operations as the amendment was developed: the Apple Daily Charitable Foundation, a nonprofit arm of the prodemocracy newspaper, and the 612 Humanitarian Relief Fund, a group supporting legal and medical fees for 2019 Hong Kong protestors.¹¹⁵

The Hong Kong government has constrained and shut down media organizations and threatened or sought to coerce their employees, contributing to sharply decreased media freedoms for the press since the crackdowns began in 2019 and the National Security Law was implemented in 2020. According to the Hong Kong Journalists Association's 2021 Press Freedom Index, between 2018 and 2020 the press freedoms rating for journalists in Hong Kong, which is based on public opinion polling, plummeted eight points to a record low of 32.1 out of 100.¹¹⁶ The press freedom report cited a police search at the premises of *Apple Daily* parent Next Digital in August 2020 as particularly harmful.¹¹⁷ In June 2021, *Apple Daily* was forced to cease operations entirely after authorities froze its assets, raided its newsroom, and arrested seven of its senior staff, detaining one as he attempted to leave Hong Kong.¹¹⁸ Seventy-three-year-old *Apple Daily* owner Jimmy Lai was repeatedly arrested and ultimately sentenced to a total of 20 months in jail.¹¹⁹ Other particularly concerning developments included the HKPF's exclusion of Hong Kong Journalist and Press Photographer Associations members from officially recognized "media representatives" and mass layoffs at the news department of i-Cable, a Cantonese-language channel.¹²⁰ In addition to the legal obstruction of news organizations, Chinese security forces reportedly targeted individual media workers directly. The State Department's *2021 Hong Kong Policy Act Report* cited "credible reports" that central government security forces have "harassed, threatened, and arrested" journalists and other media workers.¹²¹

Beijing Undermines Independent Media

The Hong Kong government and pro-Beijing entities have used several tactics to strip Hong Kong media organizations of their independence, mimicking the Mainland's heavily constrained media environment.¹²² In June 2021, authorities froze \$2.32 million in assets belonging to *Apple Daily* and two affiliated companies, leaving the publisher with funds for only a few days.¹²³ In Hong Kong, it is illegal not to pay employees within seven days following a pay period.¹²⁴ Lacking any means of paying the salaries of its 1,300 employees or covering normal operating costs, the paper had no choice but to shut down.¹²⁵

Partnerships with Chinese state media are another tactic the government has deployed successfully to interfere with independent media. In August 2021, Chief Executive Lam announced

Hong Kong's state-funded broadcaster Radio Television Hong Kong (RTHK) would partner with China Media Group, the holding group for PRC state media firms China Central Television and China Radio International, to air "patriotic" content.¹²⁶ According to Chief Executive Lam, the agreement allows RTHK's Chinese-language channel to air Mainland-produced content and produce its own programming to advocate for "safeguarding national security" and "promote a better understanding of developments on the Mainland."¹²⁷ In practice, this ensures promotion of the CCP's preferred political narratives.¹²⁸ Reporters Without Borders described this partnership as providing a "perfect pretext to force RTHK to distribute Chinese propaganda."¹²⁹

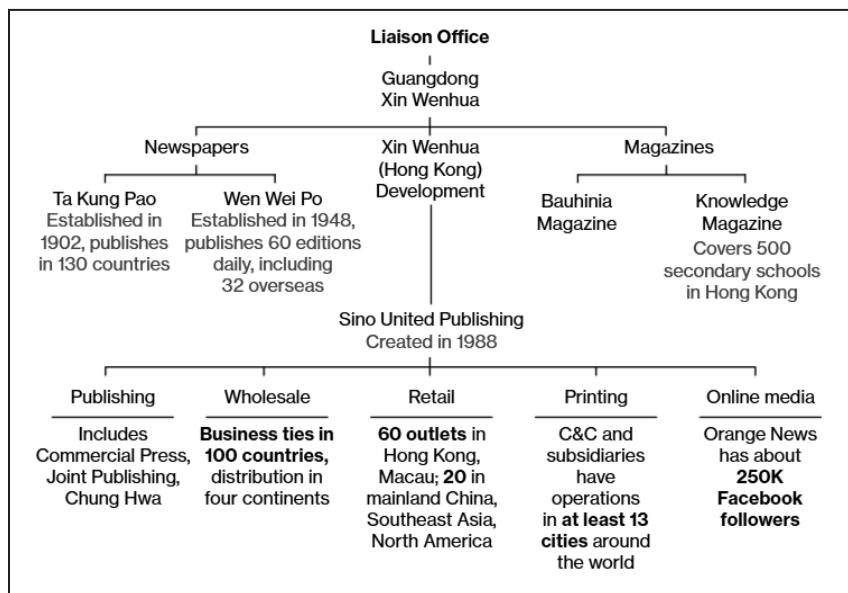
In other cases, the CCP has taken direct control of Hong Kong-based media in order to influence the tone of ostensibly independent organizations. In April 2021, Liu Changle, chairman of Hong Kong-based Phoenix Media Investment, announced he would sell his stake in the company to Bauhinia Culture, a firm administered by the central Chinese government, and to a company owned by Pansy Ho, a businesswoman with reported ties to Triad gangs.¹³⁰ Phoenix has long been "the most important media asset under the [United Front in Hong Kong]," according to former City University of Hong Kong professor Joseph Cheng.¹³¹

The Chinese government has increased control of media entities through other sweeping purchases in the recent past. The Central Liaison Office, Beijing's official representative office in Hong Kong, gained control of 80 percent of Hong Kong's publishing industry when it purchased Sino United Publishing Ltd. in 2015.¹³² The Liaison Office owns several prominent Chinese-language papers, including *Wen Wei Po*, *Ta Kung Pao*, and *Hong Kong Commercial Daily*; major bookstore chains Joint Publishing HK, Chung Hwa Book Co., and Commercial Press; at least 30 publishing houses and brands; and 60 retail bookstores in Hong Kong and Macau (see Figure 1).¹³³ Having solidified control over the majority of print publications and many online sources in the city, the Chinese government can ensure messaging in textbooks and papers supports its goals. For example, in 2020 pro-Beijing Hong Kong tycoons advocated for the National Security Law in the pages of *Ta Kung Pao* and *Wen Wei Po*.¹³⁴

Film Censorship Introduced Overnight

The Hong Kong government's decision to implement strict film censorship rules overnight illustrates how the city's remaining freedoms can be removed at a moment's notice under the National Security Law. In June, the city amended its film classification standards to prohibit content that may violate the National Security Law.¹³⁵ The new guidelines, published on the same day they were announced, now require censors to "be vigilant to [content] which may amount to endangering national security, or... jeopardize the safeguarding of national security."¹³⁶ The rules require censors to prohibit any material that violates "the common responsibility of the people of Hong Kong to safeguard the sovereignty, unification, and territorial integrity of the [PRC]."¹³⁷ These changes, which formally bring censorship standards more in line with those in the Mainland, followed several cancellations of high-profile film events

Figure 1: Media Entities Owned by the Liaison Office of the Central Government, 2020



Source: Blake Schmidt, "The Publishing Empire Helping China Silence Dissent in Hong Kong," *Bloomberg*, August 17, 2020.

in Hong Kong, including a protest documentary. Filmmakers and activists in Hong Kong argued the new policy is so broad as to restrict all films in Hong Kong, not just those related to politics or activism, and will give authorities wide latitude to enforce it as they see fit.¹³⁸ In July 2021, Hong Kong Commerce Secretary Edward Yau Tang-wah clarified that films may still be deemed illegal even after censors in the civil service approve them, since it is up to Hong Kong law enforcement to decide whether or not content breaches the law.¹³⁹

Central Government Security Forces Expand Presence in Hong Kong

The central government in Beijing expanded the presence of personnel tasked with overseeing national security operations in Hong Kong as the city took steps to streamline its ability to prosecute the National Security Law. In April 2021, the Office for Safeguarding National Security, the new super-agency directly under the central government established to enforce the law, announced plans to move to new purpose-built office spaces across government compounds in West Kowloon, an upgrade from the converted hotel its more than 200 personnel have occupied since July 2020.*¹⁴⁰ The Office for Safe-

*The compounds, which comprise two sites totaling 1.15 square kilometers (0.72 square miles) near a People's Liberation Army naval base and government dockyard at Stonecutters Island, will host "permanent office premises and ancillary facilities," according to a government statement. Government of the Hong Kong Special Administrative Region Press Releases, *Land for Office Premises of Office for Safeguarding National Security of the Central People's Government in the HKSAR*, April 23, 2021.

guarding National Security will cover the construction costs for the facilities, but Hong Kong's \$1.03 billion (\$8 billion Hong Kong dollars [HKD]) national security budget for 2021–2022 may be used to cover the salaries of Hong Kong disciplined services personnel seconded to the agency and other expenses.¹⁴¹ Article 19 of the National Security Law allows a “special fund” for national security expenditures to be approved by the chief executive without oversight from LegCo or any other restrictions, so this \$1.03 billion fund could theoretically be used for whatever the chief executive deems necessary.¹⁴² The city is now incentivizing the national security bureaucracy in the territory to continue to justify its own existence by carrying out more arrests, harassment, and surveillance in order to secure more funds.

In May 2021, the *South China Morning Post* reported that the Hong Kong and Macao Affairs Office, which coordinates Beijing's policy on the two SARs, would add two new departments overseeing national security issues and propaganda, both led by Chinese government officials.¹⁴³ According to the *South China Morning Post*, which quotes multiple anonymous mainland sources, Wang Zhenmin, former legal affairs director in the central government's Hong Kong liaison office, will head the former department, and Yang Guang, a previous Hong Kong and Macao Affairs Office spokesperson, will head the latter.¹⁴⁴ The *South China Morning Post*'s sources claim these new departments are necessary due to the increased workload under the National Security Law. The new propaganda department would absorb some of the Liaison Office's duties in managing Hong Kong media. Finally, the paper reported that the changes correspond to the 2020 elevation of Beijing's central coordination group on Hong Kong and Macao Affairs to a higher-level “central leading group” led by Politburo Standing Committee member Han Zheng, reflecting the increased scrutiny Beijing is placing on the two regions.¹⁴⁵

Judiciary Independent in Name Only

Hong Kong's historically independent judiciary is no longer reliably impartial on cases related to matters the Chinese government deems sensitive, since the National Security Law has cemented Beijing's right to determine which judges hear national security cases in which jurisdiction, almost guaranteeing outcomes the CCP prefers. The changes to the judiciary are like an “unstoppable sandstorm” sweeping away constitutional rights, according to an anonymous Hong Kong defense lawyer quoted by Agence France-Presse.¹⁴⁶ The law allows the Office for Safeguarding National Security to exercise jurisdiction in cases involving foreign countries or external elements, if a “serious situation” occurs that inhibits Hong Kong's ability to exercise jurisdiction, or if there is a “major and imminent” threat to national security.¹⁴⁷ At the decision of the Office for Safeguarding National Security, Chinese courts can extradite defendants to the opaque mainland Chinese legal system, which has a conviction rate of over 99 percent.¹⁴⁸ Charles Falconer, who was previously the UK's most senior court official, argued article 55 of the National Security Law is a key indicator that Hong Kong's rule of law is now “gone” and “a charade” because it allows Chinese authorities to resolve cases outside Hong Kong's legal system for any reason and without oversight.¹⁴⁹

Hong Kong's chief executive now has absolute power to funnel national security cases toward select individual judges who then determine how the cases proceed, ensuring outcomes favorable to Beijing. The chief executive, who is also chairperson of the Committee for Safeguarding National Security and answers directly to the central government, is now required to compile a list of all judges approved to handle national security cases.¹⁵⁰ This allows the pro-Beijing leader to exclusively list judges likely to punish alleged national security offenses harshly.¹⁵¹ Furthermore, once placed on the list, any judge can be removed from it if they criticize the National Security Law or commit other vaguely defined national security offenses.* The judges on this list oversee all national security cases, not only those brought under the National Security Law, and in several cases they have already exercised broad discretion in determining jurisdiction.¹⁵²

For example, in April 2021 District Court Judge Stanley Chan Kwong-chi ruled he had jurisdiction to try a sedition case in his lower court. This decision deprived the defendant of the trial by jury in a higher court that this serious indictable offense† would normally require and thus cut out a historically important check on the judiciary.¹⁵³ In a similar demonstration of alignment with Beijing, in May 2021 Chief Magistrate Victor So Wai Tak granted prosecutors' request to move to the High Court the subversion cases of 47 of the 53 activists who had been arrested en masse in January over their plans to gain a majority in LegCo; the High Court has no cap on sentencing.¹⁵⁴ Furthermore, the now common practice of denying bail in national security cases due to the National Security Law's strict standard‡ means defendants can be imprisoned for several years as their cases progress.¹⁵⁵ According to Jerome Cohen, a leading U.S. expert on Chinese law, the prospect of facing three years in prison even if acquitted threatens to "ruin the lives" of Hong Kong residents, deterring them from engaging in activities that might be interpreted as violating the National Security Law.¹⁵⁶

Since the January arrests, Hong Kong's use of the National Security Law has expanded dramatically to include peaceful political opposition, and authorities have signaled their intent to hand down severe sentences. As of August 31, 2021, according to a fact sheet published by the U.S. Consulate General for Hong Kong and Macau, there had been 133 arrests for alleged National Security Law offenses, 64 people and companies charged, and three people convicted.¹⁵⁷ The arrests of mainstream politicians mean there are "no discernible limits" regarding whom the authorities may target. Even

*Article 44 of the National Security Law states, "A designated judge shall be removed from the designation list if he or she makes any statement or behaves in any manner endangering national security during the term of office." The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (China), 2020, 20.

†In Hong Kong and other judiciaries that follow British legal traditions, less serious summary offenses may be heard in Magistrates' Courts, while more serious indictable offenses are almost always heard in higher courts. Summary and indictable offenses are roughly analogous to misdemeanors and felonies, respectively, in the U.S. legal system. Pringle Chivers Sparks Teskey, "What Is the Difference between Summary and Indictable Offences?" 2021; Hong Kong Legislative Council Panel on Administration of Justice and Legal Services, *Reform of the Current System to Determine Whether an Offence Is to Be Tried by Judge and Jury or by Judge Alone*, April 22, 2014, 1–2.

‡Article 42 of the law specifies that "no bail shall be granted to a criminal suspect or defendant unless the judge has sufficient grounds for believing that the criminal suspect or defendant will not continue to commit acts endangering national security." The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (China), 2020, 18.

peaceful advocacy, such as Jimmy Lai's 2019 meeting with then U.S. Secretary of State Mike Pompeo and his calls for the release of the 12 Hong Kongers intercepted as they fled by boat in 2020, is now sufficient for a charge of foreign collusion.¹⁵⁸ In July 2021, Hong Kong police even arrested five members of a speech therapists' union who published a children's book telling the story of the 12 activists using depictions of sheep and wolves to portray the activists and the police, respectively.¹⁵⁹ In addition to the broad scope of targets for these charges, the potentially severe sentencing raises concerns. Under article 29 of the National Security Law, foreign collusion convictions can result in sentences of between three and ten years or, for more severe cases, ten years to life.¹⁶⁰

The Hong Kong government has already made ample use of the National Security Law's criminalization of vaguely defined "collusion with foreign forces" to crack down on activists' contact with international interlocutors, including consulate staff. Despite claims by some observers that this provision was necessary to ensure the national government can intervene if Hong Kong cannot enforce the National Security Law, in practice the Hong Kong government has used it to punish engagement with foreigners.¹⁶¹ The Hong Kong government has used the law to deliberately "break ties between the Hong Kong pro-democracy movement and its [international] supporters," according to the Georgetown Law report.¹⁶²

In April 2021, a Hong Kong judge denied bail to former lawmaker Jeremy Tam Man-ho because U.S. Consulate staff had sought to meet with him, even though he ignored the invitations, demonstrating that even the perceived interest of foreign actors can be enough to endanger a defendant.¹⁶³ According to the U.S. Consulate General for Hong Kong and Macau's fact sheet, 19 of 133 National Security Law cases brought in Hong Kong since July 1, 2020, involved charges of colluding with foreign or external actors to endanger national security, and six involved "collusion with foreign forces" specifically, demonstrating that the government has interpreted this charge fairly broadly.¹⁶⁴ This broad charge can apply to interactions with any foreign entity, not just those with foreign governments specifically. For example, Samuel Chu testified to the Commission that Hong Kongers can be charged with collusion for engaging with Members of Congress, the UN, and overseas diaspora groups.¹⁶⁵

Overseas Judges Lose Confidence in Court of Final Appeal

It is no longer certain that overseas judges serving in nonpermanent posts on the Court of Final Appeal (CFA) can still protect the rule of law in Hong Kong. Since 1997, the Basic Law has allowed the CFA to invite judges from other common law jurisdictions to join the court and hear cases, a practice that has long been regarded as a means of ensuring the independence and professionalism of the judiciary.¹⁶⁶ In light of the National Security Law, however, the UK has begun examining whether it should continue participating in this tradition.* In a mid-2020 report to Parliament on Hong Kong, UK Foreign Secretary Dominic Raab revealed that consultations had

*According to the Hong Kong Judiciary, judges may be recruited from other common law jurisdictions, such as the UK, Canada, Australia, and New Zealand. The CFA currently includes nonpermanent overseas judges from Australia, Canada, South Africa, and the UK. Hong Kong Court of Final Appeal, *Overseas Non-Permanent Judges*.

begun with Robert Reed, president of the UK Supreme Court, on when it might become necessary to review the longstanding practice of sending British judges to the CFA.¹⁶⁷ Lord Reed then announced in October 2020 that the UK's practice of sending judges was under review.¹⁶⁸ In August 2021, Lord Reed and his deputy Patrick Hodge decided to continue serving in their nonpermanent posts after assessing that the Hong Kong judiciary continued to operate free of government interference and in accordance with the rule of law.¹⁶⁹

Whether or not commonwealth countries continue sending judges to the CFA, some foreign CFA judges have already determined they can no longer in good faith participate in a court system the Mainland's interference has so thoroughly undermined. Australian judge James Spigelman resigned in September 2020 and UK judge Brenda Hale announced in June 2021 she intended to resign from her post at the end of her term in July, citing concerns over the law's interference in the judiciary.¹⁷⁰ The Hong Kong Bar Association asked for foreign judges to continue serving in nonpermanent CFA posts, but Professor Cohen testified to the U.S. Congressional-Executive Commission on China in June 2021 that foreign judges are now mere "decorations" in an abusive legal system and should resign.¹⁷¹

The Hong Kong government and some former Hong Kong lawyers have repeatedly dismissed the concerns about foreign judges' role on the CFA as politically motivated, claiming instead that the judiciary should reduce its reliance on foreign legal perspectives. British barrister Grenville Cross, former director of public prosecutions in Hong Kong, published an editorial in Chinese state media praising British judges for resisting political pressure to resign from the CFA and claiming UK "anti-China elements" have long sought to undermine UK judges' participation.¹⁷² Some pro-establishment legislators have even suggested that making negative comments about the National Security Law should disqualify foreign judges from appointments.¹⁷³ In June, LegCo subcommittee members argued that the Hong Kong government should look to other Asian common law countries such as Malaysia and Singapore to fill nonpermanent CFA posts instead of relying on judges from commonwealth countries who might quit due to concerns about the National Security Law.¹⁷⁴ Pro-Beijing lawmaker Junius Ho suggested during the debate that Hong Kong should allow more permanent judges on the top court, which would give the "patriotic" legislature more power to tilt the high court's balance in the government's favor.¹⁷⁵ The subcommittee simultaneously recommended pro-establishment judge Johnson Lam for a long-open permanent position on the CFA, an appointment that will increase the power of the CFA's progovernment camp.¹⁷⁶

Threats to Hong Kong's Economic Future on the Rise

The passage of the National Security Law in July 2020 and subsequent intrusion of mainland oversight into Hong Kong's economic and legal systems have raised concerns about the city's future as a global financial hub. Although foreign firms have not left the city in great numbers, they have adopted a "wait and see" approach while avoiding activity that could be deemed politically sensitive.

Businesses Approach the “New Normal” with Caution

Many businesses have been adjusting to what Tara Joseph, president of the American Chamber of Commerce in Hong Kong (AmCham Hong Kong), described as the “compounded new normal”: heightened political risk, a restrictive COVID-19 response, and continued U.S.-China tensions that have affected the business environment in Hong Kong.¹⁷⁷ AmCham Hong Kong’s survey data show some foreigners and foreign businesses reconsidering Hong Kong as a safe haven, but as of 2021 there is no clear consensus on how foreign companies and residents will deal with Hong Kong’s changes.¹⁷⁸ Some financial firms are increasing their presence in Hong Kong as they seek to expand opportunities in the Asia Pacific market. For example, in 2021 Citigroup will expand its Hong Kong staff by 1,500 on top of its current roster of 4,000 employees in the SAR, while Goldman Sachs plans to add 400 personnel to its current Hong Kong staff of 2,000.¹⁷⁹ Bank of America, UBS, and Morgan Stanley have also announced expanded operations in the city.¹⁸⁰ HSBC relocated senior management from London to Hong Kong in 2021, indicating a particular focus on growth in the city.¹⁸¹

Some companies have chosen to leave but faced unusual scrutiny from Hong Kong authorities.¹⁸² The Securities and Futures Commission of Hong Kong (SFC), the Hong Kong Monetary Authority, the Hong Kong Financial Services and the Treasury Bureau, and the Financial Services Development Council called executives of departing companies to question them about their decision to leave, something executives described as “new and unusual.”¹⁸³ Executives also told the *Financial Times* that the level of interest from agencies other than the SFC was atypical, as only the SFC normally contacts companies changing residency to follow up on any appropriate licensing changes.¹⁸⁴

Foreign companies and expats who once viewed Hong Kong as a necessary gateway and preferred legal center for doing business in the Mainland no longer see a distinct difference between operating in either jurisdiction as Hong Kong’s legal system becomes less independent. Foreign companies in the retail sector, such as luxury brands and other consumer goods, moved northward to have closer proximity to customers in mainland Chinese cities.¹⁸⁵ At the same time, expats can also no longer expect to be shielded from government scrutiny and even arrest. For example, Samuel Bickett, arrested in 2019 for intervening in an assault perpetrated by a plainclothes policeman, was sentenced in June 2021 to more than four months in prison. Mr. Bickett, a former lawyer for Bank of America, believed he was stopping a crime in progress only to find himself charged with one because prosecutors felt he “embarrassed” Hong Kong authorities, according to a former prosecutor on his case.¹⁸⁶

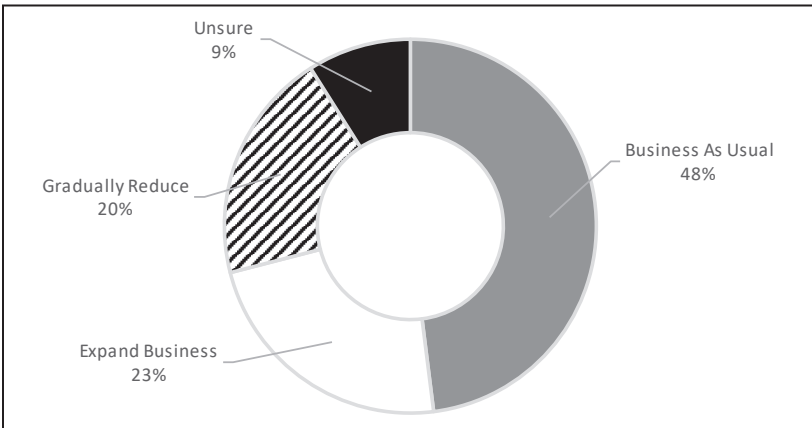
Retaining employees, particularly non-Chinese nationals with more flexibility to leave the city, is likely to become more difficult for companies operating in Hong Kong due to increased personal risk and erosion of the rule of law. In the first 12 months since the passage of the National Security Law, the Hong Kong Census and Statistics Department reported a decline in the population totaling 87,100 people, including both permanent and nonpermanent Hong Kong residents.¹⁸⁷ In the same period, the overall population de-

creased by 1.16 percent, shrinking for the first time since 2003.¹⁸⁸ While the outflow reflects COVID-19-related movement and ongoing border restrictions, it can also be attributed to increased migration of Hong Kongers and foreign residents due to increasing dissatisfaction with political tensions.¹⁸⁹

AmCham Hong Kong Surveys: To Leave, or Not to Leave?

During 2021, AmCham Hong Kong published two surveys that showed a small but steadily increasing number of foreign companies and individuals seriously considering or ready to leave Hong Kong as a result of ongoing changes to the environment. While only representative of 15 percent of its membership, AmCham Hong Kong's January 2021 business outlook survey demonstrated companies' lack of consensus on risk assessment and the economic trajectory in Hong Kong (see Figure 2).¹⁹⁰

Figure 2: AmCham Hong Kong Member Business Expectations, 2021–2023



Source: Adapted from American Chamber of Commerce in Hong Kong, “2021 Hong Kong Business Outlook Survey,” January 11, 2021.

Among the survey's 181 respondents, over 60 percent said the business environment had become worse in 2020, and 40 percent expected the business environment in Hong Kong to remain unstable or worsen further in 2021 from the prior year.¹⁹¹ Meanwhile, only 4 percent of respondents said they would move their headquarters out of Hong Kong.

Another AmCham Hong Kong member survey conducted in May 2021 focused on plans to remain in or leave Hong Kong, garnering a total of 325 responses (24 percent of membership). Of the 42 percent of respondents considering departure, 62 percent said they were motivated by the National Security Law while 49 percent also noted COVID-19-related complications.¹⁹² For those with the intention of leaving Hong Kong, 52 percent indicated a more immediate departure by the end of the year or as soon as it became feasible.¹⁹³

The National Security Law has induced some changes in company practice. Many foreign companies have long chosen to sign contracts in Hong Kong instead of mainland China, trusting that courts will abide by rule of law for disputes against Chinese companies.¹⁹⁴ With erosion of rule of law in Hong Kong and the loss of this guarantee, foreign companies are far more exposed to commercial and financial damages. The *Financial Times* reported that some foreign companies remaining in Hong Kong have sought to amend contracts, removing Hong Kong as a preferred location for arbitration and opting for courts in Singapore.¹⁹⁵ From the AmCham Hong Kong January 2021 survey, 53 percent of respondents answered that they were less likely to use Hong Kong as a center for arbitration.¹⁹⁶ This reflects declining confidence in the Hong Kong legal system's ability to adjudicate cases impartially under the National Security Law, even from a commercial perspective.¹⁹⁷ While the direct effect of these changes may be better understood in years to come, the Hong Kong International Arbitration Center still handled 318 arbitration cases in 2020, a marginal increase from 308 cases in 2019.¹⁹⁸ In Asia, Singapore and Hong Kong have long vied for the top ranking in international arbitration. Although it does not directly reflect a choice of parties to move away from Hong Kong, the caseload at the Singapore International Arbitration Center more than doubled from 416 cases in 2019 to 1,018 in 2020; cases with U.S. parties increased eightfold from 65 in 2019 to 545 in 2020.¹⁹⁹

COVID-19 and Hong Kong's Economy

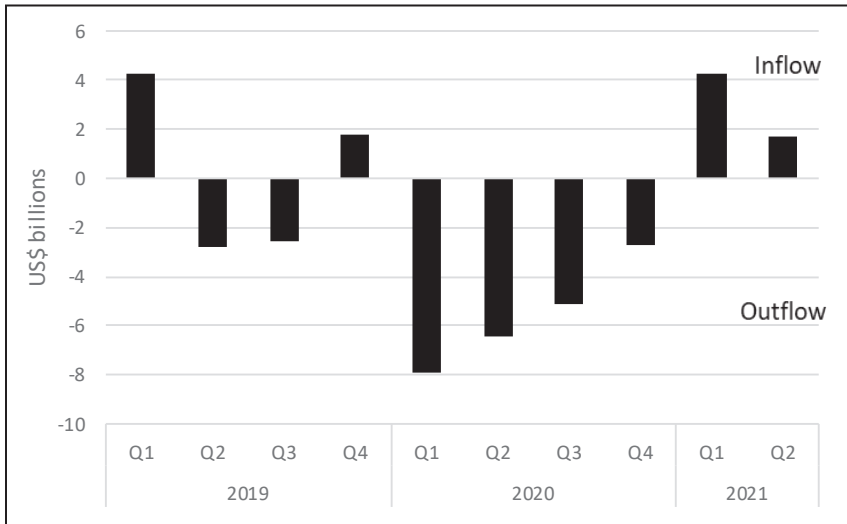
The outlook for businesses is mixed as Hong Kong seeks to recover from the pandemic, while the uneven growth and unequal distribution of assistance have exacerbated economic anxieties for low- and middle-income citizens in Hong Kong.²⁰⁰ The number of low-income households in Q1 2021 grew 40.9 percent year-on-year.²⁰¹ In spite of early successes in economic recovery, efforts to move beyond the pandemic have been beset by continued outbreaks, subsequent lockdowns, and sustained restrictions on economic activity. Intense distrust of government vaccination efforts initially stymied vaccination rates despite adequate supplies being ordered and available for Hong Kong residents.²⁰² By the end of September 2021, the vaccination rate for one dose was 60.8 percent, falling short of the government's previously stated goal of 70 percent vaccination.²⁰³ In the same month, David Hui, chair of the Hong Kong government's Scientific Committee on Emerging and Zoonotic Diseases, said the city would only open its borders and ease other restrictions once the vaccination rate is at least 80 percent, reflecting current mainland Chinese policy.²⁰⁴ Bernard Chan, a top financial advisor to Chief Executive Lam, said that despite the effect on business, Hong Kong is constrained by "China's zero-tolerance approach" that it has deemed necessary for travel between the SAR and the Mainland.²⁰⁵

Hong Kong's gross domestic product (GDP) shrank a record 6.1 percent in 2020, reflecting not only a pandemic-related slowdown but also contractions attributed to social unrest in 2019 and 2020.²⁰⁶ Q1 2021 reversed the trend of economic contraction beginning in Q3 2019 associated with both the pandemic and the protests. As the Q2 2021 GDP rose by 7.6 percent year-on-year, performance expect-

tations of large businesses for Q3 2021 were positive for the time since 2018.²⁰⁷ Consumption was buoyed by a government voucher program in Q2 2021 but remained low compared to pre-pandemic levels as the city navigates additional COVID-19 outbreaks, social distancing measures, and other safety requirements.²⁰⁸ Financial sector performance led the recovery with the expansion of financial services through Q2 2021.²⁰⁹

Foreign portfolio flows also appear to be rebounding as the economy gradually recovers. In Q1 2021, foreign portfolio investment reached a level similar to Q1 2019 after two years of an overall outflow (see Figure 3).²¹⁰ The 2021 resurgence of foreign holdings in Hong Kong indicates renewed investor faith in the city's financial future and confidence in its financial system. Strong inflows also support the continued peg of the HKD to the U.S. dollar, which has been in place since 1983.²¹¹

Figure 3: Foreign Portfolio Flows into and out of Hong Kong, Q1 2019–Q2 2021



Note: Positive values show a capital inflow into Hong Kong. Negative values show a capital outflow out of Hong Kong. A (positive) capital inflow occurs as entities purchase assets in Hong Kong and pay Hong Kong entities for those assets. A (negative) capital outflow occurs as entities sell their Hong Kong assets and repatriate their payment from the sale. Note these amounts only show portfolio investment, not FDI.

Source: Hong Kong Census and Statistics Department, *Balance of Payments, Table 44*, September 23, 2021.

Alongside the financial sector, trade increased 20.2 percent year-on-year in Q2 2021.²¹² Other industries, however, have been slow to return to even pre-pandemic levels. Retail and hospitality sector

* In the first six months of 2020, Hong Kong's portfolio investment abroad increased overall by 5.1 percent year-on-year, with top recipients being the Cayman Islands, mainland China, and the United States. While Hong Kong portfolio investment in the United States grew by 5.6 percent in the same period, such investment to mainland China decreased by 7.2 percent. The Cayman Islands, a global tax haven, saw a 22.9 percent increase. Coordinated Portfolio Investment Survey, "Table 1: Reported Portfolio Investment Assets by Economy of Nonresident Issuer: Total Portfolio Investment," *International Monetary Fund*, September 15, 2021.

recovery has especially faltered in the face of minor COVID-19 outbreaks and reinstated lockdown and quarantine policies.²¹³ Combined, these two industries compose 14 percent of the labor force.²¹⁴ Tourism, which made up 4.5 percent of the 2018 GDP, reflects the overall economic trend, with growth faltering in 2019 and shrinking even more dramatically in 2020.²¹⁵ Between January and June 2020, tourist arrivals shrank 89.9 percent year-on-year and then dropped a further 99 percent over the same period in 2021.²¹⁶

Mainland Company Presence on the Rise

The Greater Bay Area, which links Hong Kong, Macau, and nine cities in southern China, has developed more rapidly in recent years to expand the area's commercial opportunities and further integrate Hong Kong into the Mainland. In addition to expanding business potential in the region, the Hong Kong government has also made a concerted effort to strengthen incentives for wealthy residents to stay in the city by proposing tax breaks and other policies to facilitate greater wealth retention and financial opportunities.²¹⁷ Along with the new tax exemptions,* Hong Kong's government has introduced new licensing procedures to encourage the development of "family offices," private wealth management firms specifically designed for affluent families and individuals.²¹⁸ The territory's government also approved measures to subsidize the return of certain investment and trust funds, a move intended to incentivize more financial sector growth.²¹⁹

As the Hong Kong government enacts more policies to support business and finance, more mainland Chinese companies are moving into Hong Kong. With increased Chinese listings on the Hong Kong Stock Exchange (HKEX), Chinese companies see benefits to setting up physical operations near financial and business services in Hong Kong. The territory's importance as a commercial hub and close proximity to other bustling cities in the Greater Bay Area continue to be key advantages.²²⁰ Larger Chinese purchases of Hong Kong property in 2021 follow office expansions of Chinese banks and Hong Kong branches of other prominent Chinese firms like ByteDance in the previous year.²²¹ In 2020, the number of mainland Chinese company headquarters and regional offices† increased by 12.1 percent compared to a decline of 6.1 percent in U.S. offices.²²²

Compliance Burdens and Legal Risks Escalate for Foreign Companies

Chinese government efforts to retaliate against foreign criticism and sanctions will force foreign companies into a difficult compromise between different legal systems. U.S. companies are navigating changes in Hong Kong just like many other foreign firms are, but U.S. technology companies—particularly social media platforms—

*As of April 2021, Hong Kong's Inland Revenue Department reduced carried interest taxes to zero percent for certain gains made from investment in private companies. The change largely benefits private equity and asset management industries in Hong Kong. In June 2021, the Hong Kong government reintroduced rules to allow for tax exemption in the territory for foreign taxes assessed elsewhere on a gross income basis. Anthony Pak et al., "Carried Interest Tax Concessions Set to Strengthen Hong Kong SAR's Private Equity Industry," *International Tax Review*, August 18, 2021; Ernst & Young, "Hong Kong Enacts Legislation to Allow a Tax Deduction for Foreign Taxes Charged on Gross Income Basis," June 22, 2021.

†This estimate includes only regional headquarters and regional offices, which have parent companies located outside of Hong Kong and regional responsibilities for business in the region. Regional headquarters also manage other branches of the business in the region. Hong Kong Census and Statistics Department, *Foreign-Affiliated Companies in Hong Kong*, November 27, 2020.

will be especially vulnerable as the Hong Kong government's security apparatus grows even more stringent. The National Security Law specifically requires telecommunications and related technology companies to assist law enforcement with requests for data and takedowns of content that violates the National Security Law, similar to other laws in mainland China.²²³

As early as 2019, coinciding with the prodemocracy protests, Facebook began to cooperate less frequently with the Hong Kong government's requests to provide data, but since the imposition of the National Security Law it has stopped entirely.²²⁴ The Hong Kong government's requests for information from Facebook increased by 20.8 percent from 2019 to 2020, particularly in the latter half of the year following the implementation of the National Security Law.²²⁵ In September 2021, the *Hong Kong Free Press* reported that Google was the first U.S. tech company to disclose compliance with Hong Kong authorities over three requests.²²⁶ The company said that two requests were related to human trafficking while the other was an emergency request with a "credible threat to life."²²⁷ Apple and Twitter have stopped responding to content requests since the National Security Law took effect.²²⁸ While Hong Kong authorities have not yet penalized tech companies for lack of cooperation, U.S. tech firms could be fined or forced to cease operations in Hong Kong under the broad scope of the National Security Law.* In its Hong Kong business advisory, the Biden Administration specifically notes China's growing data and cybersecurity apparatus, cautioning the potential for Chinese laws to be applied in Hong Kong.²²⁹

Short of adopting the Mainland's cybersecurity and censorship rules, the Hong Kong government can already order companies and organizations to censor specific content for vague reasons. In September 2021, the Hong Kong Alliance, the group that organized Hong Kong's annual Tiananmen vigils, announced it would comply with police orders to remove content from its website and social media that violated the National Security Law.²³⁰ While U.S. companies have stated their intentions to resist law enforcement data requests originating from Hong Kong, Ms. Datt noted during the Commission's September hearing that U.S. companies have not pledged to deny content takedown requests.²³¹ Police orders for takedown requests could apply not only to online content provision, but also to app stores and digital services. The Hong Kong government could order app stores such as Apple or Google to remove virtual private network programs from app stores in Hong Kong, similar to Chinese government requirements in the Mainland.²³² Such measures might also extend to other applications with privacy features that have become increasingly popular among Hong Kong mobile users, such as Signal, a chat app with encrypted messaging capabilities.²³³ These potential restrictions would render iPhone and many Android users, including U.S. citizens and employees of U.S. businesses, suddenly without a means of browsing the internet safely and without censorship.

* Even without the cooperation of U.S. tech firms, the Hong Kong government has been able to use social media information—even information shared in ostensibly private conversations—to prosecute protestors and prodemocracy figures. For example, in May 2021 Hong Kong courts were able to use private WhatsApp messages between former prodemocracy lawmaker Claudia Mo and foreign journalists to deny her bail, characterizing the exchanges as a "threat to national security." Rhoda Kwan, "Social Media Messages from Hong Kong Democrat Claudia Mo to Int'l Media 'a Threat to National Security,'" *Hong Kong Free Press*, May 28, 2021.

Vague Data Privacy Rules Complicate Compliance and Threaten Press

Upcoming changes to Hong Kong's data privacy policies present another obstacle to operations of U.S. tech companies and other foreign firms that handle personal data. In May 2021, the Hong Kong Office of the Privacy Commissioner for Personal Data (PCPD) proposed amendments to specifically address doxxing, or disclosure of personal information for malicious purposes,* under the SAR's regulations on privacy protection, the Personal Data Ordinance.²³⁴ The proposed amendment would make it a violation of the Personal Data Ordinance to disclose personal data without the subject's consent "with an intent to threaten, intimidate or harass the data subject or any immediate family member, or being reckless as to whether the data subject or any immediate family member would be threatened, intimidated or harassed."²³⁵ Disclosure of personal information with intent to cause psychological harm or "being reckless" to the potential for such harm carries a similar penalty.²³⁶ The PCPD cited that it received over 5,700 complaints related to doxxing between June 2019 and April 2021.²³⁷ A bill to codify the amendments is expected to come before LegCo in October 2021.²³⁸ The bill also grants the Hong Kong privacy commissioner, the government's chief authority on implementation and enforcement of data protection, the right to engage in searches without a warrant to investigate possible doxxing cases.²³⁹ Penalties for violating the proposed amendments include a maximum fine of \$129,000 (\$1 million HKD) and five years of jail time.²⁴⁰

In addition to increased risk of liability and potential difficulty of compliance, U.S. companies may be forced to play a part in selective enforcement efforts on the part of the Hong Kong government. As Ms. Datt said in her testimony before the Commission, "American companies may find that they are forced to choose between complying with censorship requests, having their employees jailed in a standoff, or in the long-term quitting the Hong Kong market, leaving it open to being dominated by compliant mainland companies."²⁴¹ U.S. tech companies have criticized the amendments' language for being overly broad with a vague definition of doxxing that could result in a "disproportionate and unnecessary response."²⁴² The *Wall Street Journal* reported that companies have subsequently indicated to the Hong Kong government that they may not be able to offer services in Hong Kong should the amendments go through, though Chief Executive Lam assured companies that their fears, as with the National Security Law, will not come to pass.²⁴³ The risk exists that the Hong Kong government would deploy data protection rules to target journalists and activists. According to multiple media reports, doxxing became an extensive problem during the 2019 protests, where both sides were targeted, but prodemocracy protestors and journalists were particularly vulnerable.²⁴⁴ Journalists investigate and expose public or influential figures through their reporting, and as a result they are more likely to be unfairly targeted by the amendment.

* Doxxing refers to the disclosure of an individual's personally identifiable information, or "documents," for malicious purposes such as stalking, harassment, or public humiliation. U.S. Department of Homeland Security, *How to Prevent Online Harassment from "Doxxing,"* April 2017.

New Chinese Legal Tools Increase Risks for Affiliates, Employees, and Family Members

China's National People's Congress explicitly created the Anti-Foreign Sanctions Law in June 2021 as a means to retaliate against sanctions that countries enacted in response to China's repression in Hong Kong as well as Xinjiang.²⁴⁵ AmCham China described the law's potential application to Hong Kong as "further erod[ing] the city's autonomy."²⁴⁶ The National People's Congress would still need to pass a motion to include the Anti-Foreign Sanctions Law in Hong Kong's Basic Law, now essentially a legal formality that would be seamless to implement with or without consultation from the Hong Kong government.²⁴⁷ Along with prohibiting companies from complying with foreign sanctions, the Anti-Foreign Sanctions Law provides that the Chinese government may sue entities for any related compensation loss resulting from compliance with foreign sanctions targeting Chinese entities.²⁴⁸ In August 2021, the National People's Congress delayed adopting the Anti-Foreign Sanctions Law into Hong Kong's Basic Law to avoid shaking confidence in the business and investment environment.²⁴⁹ In October, Chief Executive Lam said that the government had no timetable for introducing the law and would do so in consideration of Hong Kong's status as an international financial center.²⁵⁰ Days later, Chief Executive Lam's top financial advisor Bernard Chan said he was "pretty sure that the law is going to be enacted" after the government could resolve final details.²⁵¹ The law's adoption in Hong Kong would mean the Chinese government could punish U.S. and other foreign financial firms that comply with U.S. laws, including those targeting the loss of Hong Kong's autonomy.²⁵² (For more on China's actions to counter foreign sanctions, see Chapter 2, Section 1, "Year in Review: Economics and Trade.")

Obscuring Public Registers Threatens Corporate Transparency

The Hong Kong government introduced new restrictions on the availability of public registers and other government data, sparking concerns about transparency and potential risks to foreign shareholders. In April 2021, the Hong Kong government announced a rule restricting public availability of company registry information for company directors, citing a need to protect directors' privacy.²⁵³ Prior to the rule change, company director names, identification numbers, and home addresses were publicly listed, preventing directors from obscuring their identity across documents and entities.²⁵⁴ The new rule will be implemented in three phases beginning in August 2021 and ending in December 2023 to gradually obscure company directors' data.²⁵⁵ By the final stage, the restrictions could allow companies to obscure all private information of directors such that only a narrow set of people (liquidators, company officers, bankers, and lawyers) could gain access to those companies' documents for designated professional purposes, such as due diligence.²⁵⁶ Many in the business community, including Gordon Jones, former head of the Companies Registry (which administers the company register), criticized the move over concerns it would decrease transparency and enable more corruption and fraud.²⁵⁷

Although the rule has been predicated on concerns over privacy and potential doxxing, the Hong Kong PCPD offered no evidence

demonstrating that company registries were a source of privacy violations.²⁵⁸ A similar rule was proposed in 2013 but was withdrawn after significant pushback from the business community. The government's attempt to introduce the change in 2013 followed reporting that connected high-level CCP members to significant assets held in Hong Kong.²⁵⁹ CCP officials were highly sensitive to these disclosures, which even exposed General Secretary of the CCP Xi Jinping and his relatives. Reporting on the wealth accumulation of these CCP elites garnered Chinese and international scrutiny.²⁶⁰

The increasing restrictions on the availability of government records further constrains Hong Kong's public discourse. Journalists have long relied on public registry data in order to uncover fraud and other abuses. Law firms, civil society groups, and nongovernmental organizations have used such publicly available data for due diligence and other key reporting.²⁶¹ The Hong Kong Journalists Association condemned the rule, but Chief Executive Lam has asserted that no one should have such privilege to access personal information.²⁶² Suzanne Nossel, former U.S. deputy assistant secretary of state for international organizations, cautioned that "the withering of press freedom has direct implications for Hong Kong's business sector."²⁶³

Hong Kong's Stock Exchange Remains Robust

While the Chinese government promotes more open onshore financial markets, such as the high-tech startup hub of the Shenzhen stock market, it views Hong Kong as the preferred alternative to U.S. exchanges for Chinese company listings.²⁶⁴ Prominent Chinese companies like tech giant Baidu and video-sharing platform Bilibili were already flocking to the HKEX. Increased activity on the HKEX followed a number of Chinese company de-listings in the United States spurred by U.S. policies to block investment in Chinese military-related companies (for more on Chinese company de-listings, see Chapter 2, Section 4, "U.S.-China Financial Connectivity and Risks to U.S. National Security").²⁶⁵ At the same time, the Chinese government has thrown the future of listings into question, beginning with its November 2020 suspension of the Ant Group's planned initial public offering (IPO) on the HKEX and extending to a broader tightening of restrictions on tech companies.²⁶⁶ The rush of IPOs between the end of 2020 and the beginning of 2021 has slowed, with IPO offerings declining by 78.1 percent from Q1 to Q2.²⁶⁷

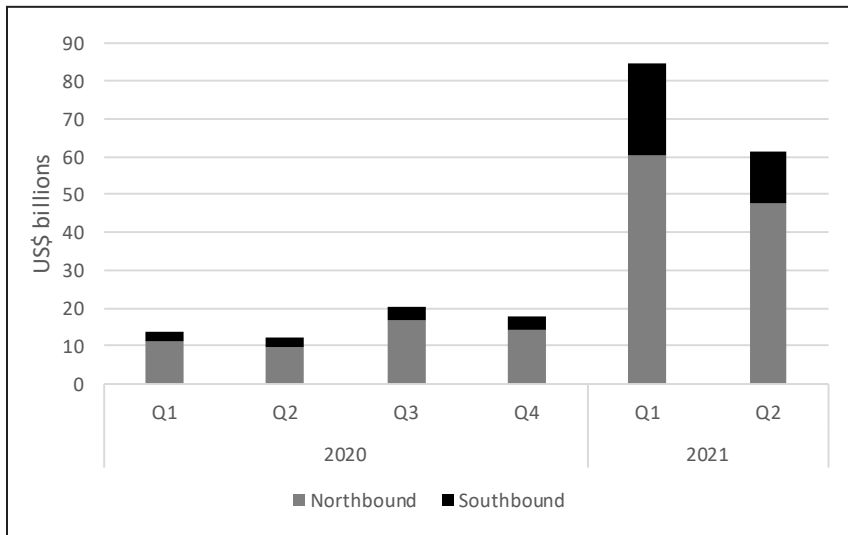
Hong Kong is introducing rules to promote new listings. In July 2021, the HKEX formally introduced the Fast Interface for New Issuance (FINI) platform to digitize and streamline the IPO settlement process in Hong Kong, which the HKEX expects "to help reduce the total money locked up in the largest IPOs by up to 70 percent to 80 percent."²⁶⁸ FINI is expected to be effective by Q4 2022 and will shorten the time between pricing and trading to match the global average.²⁶⁹ Additionally, Hong Kong regulators are contemplating broadening the scope of allowable dual-class share listings on the

*The FINI will only streamline the initial process allowing investors to buy shares following a company's IPO. Introduction of the FINI will not alter preexisting standards and rules for lockup agreements, which prohibit investors in an IPO from selling their shares for a certain amount of time. Peter Alleston, "IPO Lock Up Agreements," *IHS Markit*, July 2021; Jiayue Huang, "Hong Kong to Shorten IPO Settlement Process to Align More with Global Practice," *S&P Global*, July 6, 2021.

city's stock exchange, which currently is limited to tech firms in "emerging and innovative sectors."* Hong Kong approved this model in 2018, and it has since attracted prominent Chinese tech firms like Xiaomi and Alibaba.²⁷⁰

Alongside broader systemic changes, Hong Kong introduced new investment channels to tighten links between financial markets in Hong Kong and the Mainland. In September 2021, the long-awaited southbound Bond Connect opened with an annual cap of \$77 billion, linking the HKEX, China Central Depository and Clearing, and Shanghai Clearing House through 41 approved mainland Chinese banks and 15 Hong Kong banks.²⁷¹ The northbound Bond Connect opened in 2017 and its mainland insurance investment assets reached a value of \$3.37 trillion at the end of 2020.²⁷² Given the success of the northbound link, the southbound link is expected to strengthen HKD- and USD-denominated bonds.²⁷³ The northbound Bond Connect experienced an 82 percent increase in activity over the course of 2020, building up confidence in the southbound Bond Connect's potential to attract investment.²⁷⁴ Alongside the Bond Connect, the Stock Connect linking Hong Kong to Shanghai and Shenzhen saw renewed life in 2020, with northbound traffic up 119 percent and southbound traffic up 128 percent.²⁷⁵ In the first six months of 2021, total revenue of the Stock Connect was up 78 percent year-on-year from the same period in 2020, while the average trading volume increased five-fold (see Figure 4).²⁷⁶ The performance of these channels demonstrates Hong Kong's continued importance as China's offshore finance hub, presenting Chinese investors with reliable investment options.

Figure 4: Stock Connect Average Trading Volume, Q1 2020–Q2 2021



Source: Hong Kong Exchanges and Clearing, "2021 Interim Results Presentation," August 11, 2021.

*Dual-class share listings enable companies to sell shares that are differently weighted and can provide founders with greater control in the company. Yen Nee Lee, "Hong Kong Is Considering 'Dual-Class' Share Listings for Non-Tech Firms, Says Official," *CNBC*, March 30, 2021.

Accelerating “Mainlandization” via the Greater Bay Area

Deepening integration of the Greater Bay Area is critical to fulfilling the CCP’s vision of facilitating technology and innovation growth articulated in its 14th Five-Year Plan.²⁷⁷ The Greater Bay Area is the Chinese government’s plan to strengthen links between Hong Kong, Macau, and nine other Chinese cities around the Pearl River Delta, including the prominent business centers of Shenzhen and Guangzhou. Covering a population of approximately 86 million people, the initiative is focused on increasing economic opportunity through deeper commercial and transportation integration.²⁷⁸ The Chinese government introduced the initiative through its 13th Five-Year Plan in 2015 and announced formal policies to support the initiative in 2017 along with a development plan in 2019.²⁷⁹ In April 2021, China’s National Development and Reform Commission announced a funding plan to boost projects in the Greater Bay Area, particularly those related to science and technology.²⁸⁰ Though the plan did not disclose precise amounts, the fund will come directly from the central government budget.²⁸¹ The CCP focused on the Greater Bay Area and two other regional urban clusters in its 14th Five-Year Plan, emphasizing their role in facilitating China’s international openness as well as science and technology advantages.*²⁸²

Recent momentum has made the Greater Bay Area a source of business confidence, enabling more foreign investment in Hong Kong and the surrounding region. According to AmCham Hong Kong’s 2021 outlook survey, 15 percent of respondents were “very optimistic” about the Greater Bay Area’s growth prospects while 44 percent were “cautiously optimistic.”²⁸³ Domestic and foreign businesses are calibrating an approach to split up operations across the region and take advantage of new funding mechanisms and other infrastructure projects in the region. Alongside proposals for deeper transportation integration, respective real estate markets have also swelled. Some mainland Chinese developers anticipate that growth in Shenzhen will make Hong Kong into its “backyard.”²⁸⁴ Midland, a mainland realtor, reported that mainland Chinese purchases of residential property in Hong Kong increased 40 percent year-on-year in the first two months of 2021.²⁸⁵ Shenzhen’s status as a tech hub has made some parts of the city even pricier than Hong Kong, particularly for real estate near the Shenzhen-Hong Kong border.²⁸⁶

Fitting Hong Kong into Dual Circulation

Chinese and Hong Kong policymakers see great potential for Hong Kong’s role in driving both tracks of the CCP’s dual circulation strategy, which is aimed at reorienting China’s growth toward domestic consumption while remaining open to global markets in strategic sectors (for more on dual circulation, see Chapter 1, Sec-

*The Chinese government has bolstered efforts to integrate urban agglomerations in recent years, with the Chongqing-Chengdu cluster in the west of China being the latest plan formulated in 2019 and described in greater detail over the course of 2020. In addition to supporting innovation goals, the government views these urban agglomerations as platforms for increased domestic consumption and production to enable China’s dual circulation strategy. James Alexander and Deng Zhang, “Chengdu-Chongqing Economic Circle to Drives High-Quality Development | Chongqing Opportunity,” *iChongqing*, December 11, 2020; U.S.-China Economic and Security Review Commission, *November 2020 Trade Bulletin*, November 9, 2020; Hannah Zhihan Zheng, “How China’s New ‘City Cluster’ of Cheng-Yu Can Become Fourth Powerhouse to Drive Nation’s Economic Growth,” *South China Morning Post*, September 21, 2020.

tion 1, “The Chinese Communist Party’s Ambitions and Challenges at Its Centennial”). Under its dual circulation strategy, the CCP aims to create “port clusters” among each of its urban agglomeration projects, including the Greater Bay Area. The Chinese government envisions Greater Bay Area cities leveraging Hong Kong’s expertise and experience as a port city, especially as opportunities for trade increase with the buildout of the Belt and Road Initiative and implementation of the Regional Comprehensive Economic Partnership (RCEP) (for more on China’s participation in RCEP, see Chapter 2, Section 1, “Year in Review: Economics and Trade”).* Beijing also sees Hong Kong’s universities and international orientation as assets to increasing the rest of China’s basic research capabilities as it looks to strengthen its innovation capacity.

Strengthening Financial Ties with New Instruments

The Chinese government has launched or prepared new financial mechanisms to deepen ties within the Greater Bay Area and elevate Hong Kong’s role as an offshore finance hub for Chinese companies. Among them is the GBA Wealth Management Connect, a cross-border investment scheme to enable the sale of investment products among the 11 cities of the Greater Bay Area.† The investment channel launched in September 2021 with 100 to 200 funds eligible to sell products on the Wealth Management Connect and 20 banks interested in seeking approval in the first week of opening.²⁸⁷ Investment sales will be limited to just over \$23.3 billion (150 billion renminbi [RMB]) each direction for a total of \$46.7 billion (300 billion RMB), but regulators are open to raising the quota gradually to attract more investors.²⁸⁸ According to analysts at BNP Paribas and KPMG, the financial products sold through the Wealth Management Connect will be particularly helpful for funding startups and tech companies.²⁸⁹ These developments build on the Chinese government’s efforts to grow the wealth management industry to gain foreign expertise and access much-needed funding as Chinese regulators strive to rein in debt. Hong Kong’s open financial system presents Chinese regulators with a more flexible testing ground for new products and services and remains a valuable funding channel for Chinese firms.

Complementing the Wealth Management Connect, the Insurance Connect will likely launch in 2021 as well. The Insurance Connect will allow Hong Kong insurers to expand into other Greater Bay Area cities, allowing mainland Chinese to purchase products from Hong Kong more easily and vice versa. Mainland Chinese purchases of insurance products in Hong Kong slumped between 2019 and 2020 due to widespread protests and then the pandemic, but in 2018 there were close to \$1.3 billion in new policy sales and \$6.2 billion in premium payments.²⁹⁰ Mainland purchases were at their peak in 2016 at a total of \$9.4 billion, a figure that insurance executives in

*As of August 2021, RCEP is expected to enter into force sometime in the first half of 2022 once six countries have ratified the agreement. Hong Kong trade officials have expressed an expectation to join the agreement once it has been fully ratified. Wang Tianyu, “Hong Kong Actively Applying to Join RCEP, Says Financial Chief,” CGTN, June 24, 2021; Economist Intelligence Unit, “RCEP Unlikely to Become Effective until 2022,” August 4, 2021.

†China’s government has accelerated its work to develop a domestic wealth management industry. For more, see U.S.-China Economic and Security Review Commission, *June 2021 Trade Bulletin*, 7–10.

Hong Kong can aspire to as investment-linked insurance products grow with economic recovery in mainland China and Hong Kong.²⁹¹

As of 2018, Hong Kong ranked first in Asia and is the third-most-developed global insurance market in terms of the concentration of offerings and insurers.²⁹² Life, health, and annuities policies are some of the most purchased Hong Kong insurance products among mainland Chinese.²⁹³ With the continued expansion of financial product offerings, the Insurance Connect is expected to grow Hong Kong's profile as a risk management hub. According to reporting by the *South China Morning Post*, it is unlikely that new products will be offered immediately after its opening, but financial analysts anticipate the Insurance Connect will be able to manage claims and gradually add more products for sale in a steadily growing insurance market.²⁹⁴

Sovereign Digital Currency Will Boost China's Greater Bay Area Plans

Chinese policymakers see great potential in the digital RMB streamlining transactions throughout the Greater Bay Area and boosting the RMB's internationalization.²⁹⁵ They also hope the digital RMB will help the Mainland and the SAR governments of Hong Kong and Macau reduce crime. Greater Bay Area cities were some of the first to test China's digital RMB, with payments issued to Shenzhen residents in December 2020. Beijing envisions the Greater Bay Area as key to increasing the digital RMB's use as a settlement and payment currency.²⁹⁶ In April 2021, the People's Bank of China (PBOC) and the Hong Kong Monetary Authority (HKMA) were working on "technical testing" of the digital RMB as a means of preparing the sovereign digital currency for further cross-border rollout.²⁹⁷ The PBOC also proposed a regulatory testing ground between Shenzhen and Hong Kong that would allow for experimentation of financial offerings based on the digital RMB and create an "expressway" for cross-border finance between the two cities.²⁹⁸ Foreign observers are skeptical the digital RMB would significantly advance its internationalization.²⁹⁹ (For an in-depth discussion, see Chapter 2, Section 2, "The Chinese Communist Party's Economic and Technological Ambitions: Synthetic Biology, New Mobility, Cloud Computing, and Digital Currency.")

Beijing also sees the digital RMB as a key tool in eliminating crimes like cross-border gambling (which is legal in Macau but not mainland China), money laundering, and tax evasion. Use of a traceable currency recorded and maintained by China's central government would likely reduce crime, but Macau casino operators fear the digital currency may shrink business even further after a nearly 80 percent decline in gaming revenue in 2020 due to border closures.³⁰⁰

As Hong Kong works with the PBOC on building out the digital RMB, regulators are also considering the development of a digital HKD.³⁰¹ While the HKMA has said a digital HKD would not change the currency's peg to the U.S. dollar, its development raises several concerns for regulators.³⁰² In June 2021, the HKMA launched a 12-month study of a digital HKD that would advance alongside continued testing of the digital RMB.³⁰³ It is unclear, however, which

institution would be responsible for issuing the digital HKD, as Hong Kong's banking system currently relies on three commercial banks—Standard Chartered, HSBC, and the Bank of China (Hong Kong)—for authorized banknote issuance. Development of a sovereign digital currency issued by the HKMA could prove detrimental to the financial system in Hong Kong by draining commercial bank deposits, constraining banks, and concentrating deposits within the HKMA.³⁰⁴ Popularized use of sovereign digital currencies from either Beijing or Hong Kong will carry an increased likelihood of monitoring and surveillance.

Implications for the United States

The extensive restrictions on freedom of speech, assembly, and association have turned Hong Kong from an open society into a police state. This transformation has been in direct violation of Beijing's international commitments. Fears over widespread enforcement of the National Security Law have become real, affecting everything from Hong Kong residents' access to information to their freedom of movement. The Beijing and Hong Kong governments are intervening in nearly every aspect of life in the city, including business and commerce. U.S. diplomats in Hong Kong cannot carry out their duties to engage with Hong Kong residents without endangering their interlocutors because the Hong Kong government now views any such contact as evidence of collusion with foreign forces. U.S. citizens visiting or transiting Hong Kong are also now subject to the territory's unpredictable and opaque law enforcement.

As Hong Kongers must now contend with the government's authoritarian policies, U.S. companies, investors, travelers, and students who once relied on Hong Kong's transparency, rule of law, and international culture no longer have a "safe haven" alternative to mainland China. Diminishing access to real-time and uncensored information, ambiguous legal interpretation, and selective enforcement of broad new laws increase risks of doing business for the 1,283 U.S. companies in the city.³⁰⁵ U.S. companies that have used Hong Kong as a gateway to mainland China are now vulnerable to financial and legal exposure. Contracts formed under Hong Kong's legal system are no longer reliable as the SAR's court system is now politicized and new rules can be introduced without regard to public consultation.

U.S. companies cannot count on a clear separation between matters of security and commerce or ensure protection against discriminatory treatment or disproportionate punishments. Both local and foreign employees of U.S. firms are now vulnerable to arrest under the National Security Law, potentially resulting in long prison sentences for what would be a minor offense in the United States. The Bickett case demonstrates that foreign citizens in Hong Kong, regardless of affiliation, nationality, and even relationship to the business community, are susceptible to punishments from the sweeping nature of the National Security Law. Foreign companies operating in Hong Kong may ultimately find it more difficult to hire foreign staff as more foreigners choose to leave the city. Local staff may also be hesitant to work alongside foreign colleagues due to the SAR government's broad interpretation of collusion with foreign forces.

Hong Kong's government is now more likely to adopt Mainland-style restrictions on movement, such as informal "exit bans" that prevent certain individuals or their relatives, including U.S. citizens, from leaving China.³⁰⁶ Hong Kong's new immigration bill has given the SAR the tools to impose a blanket ban on emigration for political dissidents. This development raises the specter of travel constraints similar to those of the former Soviet Union that could ensnare U.S. citizens or employees of U.S.-based businesses.

Foreign and local residents of Hong Kong face daily pressures to self-censor alongside increasingly restrictive constraints to information and communication. Authorities in Hong Kong can quickly and arbitrarily extinguish the city's remaining freedoms, such as when they implemented new film censorship rules. Blocking major social media sites could be an early indicator of moving toward more systematic internet censorship and restriction of digital communication. Such restrictions would impair the ability of Hong Kong's residents, including 85,000 U.S. citizens, from communicating with those outside the city and potentially prevent U.S. businesses from reaching their customers in Hong Kong.³⁰⁷ The Hong Kong government could also ban programs like virtual private networks, leaving U.S. citizens in Hong Kong without a means of accessing the internet safely and without censorship.

China's imposition of its government extremism in Hong Kong imperils the future of democracy in the region more broadly. With its robust free market and democratic spirit, Hong Kong was once viewed as a model for a broader shift in China and the region toward free and open societies and markets. The Mainland's destruction of Hong Kong's freedom and autonomy attests not only to the dim prospects for moderation of the political system in China, but also to the prospects of other democratic societies Beijing has pledged to bring under its control, such as Taiwan. The CCP's violent response toward mass protests against its actions and violation of its legal obligation to protect Hong Kong's freedoms reflects the Party's determination to stamp out any opposition it perceives as threatening its interests and political control. Beijing's disregard for its international obligations is a disturbing precedent, signaling to other countries that the rules-based order is unreliable and that authoritarians can crack down on their populations at any time.

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