

SECTION 4: CHINA AND HONG KONG

Key Findings

- Beijing’s increasing pressure on Hong Kong has called into question the “one country, two systems” framework. Mainland China’s interpretation of the Basic Law (Hong Kong’s mini constitution) on Hong Kong lawmakers’ oaths of office—while a legal case on the matter was ongoing—has raised widespread concerns about the level of autonomy in Hong Kong’s judiciary. It has also caused apprehension in Hong Kong about the implications for political life and freedom of speech in the territory. Six prodemocracy legislators-elect were barred from office following the decision and two additional lawmakers face criminal charges, which could result in their seats being vacated in Hong Kong’s legislature. This poses a significant threat to the representation of prodemocracy voices in the legislature.
- Mainland China continues to either disregard or ignore Hong Kong’s rule of law and its related commitments to the international community. In addition to the disappearance of five Hong Kong book sellers in late 2015 (a case that remains unresolved as this Report went to print), mainland agents in January 2017 apparently abducted a Chinese-born billionaire with Canadian citizenship and close ties to senior Chinese government officials, taking him from a hotel in Hong Kong. These incidents have raised concerns about Hong Kong’s legal protections.
- The 2017 chief executive election, which used the existing voting system by an election committee comprising mostly pro-Beijing electors, resulted in the Mainland’s preferred candidate Carrie Lam taking the most votes. Having served as the second-most senior official under the previous administration, which was deeply unpopular, and being seen as loyal to Beijing, Chief Executive Lam is unlikely to advance prodemocracy advocates’ goal of universal suffrage in chief executive elections.
- Consistent with its downward trajectory in recent years, press freedom in Hong Kong continues to decline, according to journalists in Hong Kong and leading international non-governmental watchdogs. These observers point to mainland China’s rising interference in local Hong Kong media, erosion of media autonomy, and increasing difficulty in covering sensitive stories.
- As Beijing’s fears regarding Hong Kong’s political dynamics appear to be rising with the increase in prodemocracy advocates pushing for greater autonomy from mainland China, pressure on prodemocracy activists is on the upswing. In the lead up to Chief Executive Lam’s formal inauguration on July 1, 2017, Hong Kong authorities arrested numerous prodemocracy leg-

islators and activists. This was followed by the August 2017 jailing of Joshua Wong and two other student leaders from the 2014 Occupy protests—escalating a wide-scale crackdown that has further eroded freedom of expression in Hong Kong.

- Concerns persist among prodemocracy advocates in Hong Kong and among international observers that the territory is sliding away from “one country, two systems” and moving ever closer to the Mainland. In the process, they argue, Hong Kong is losing the unique characteristics and legal protections that make the territory a key U.S. partner in the Asia Pacific. As Beijing moves to tighten its control over Hong Kong, the territory also faces economic pressure from mainland China.
- Hong Kong continues on the path of greater economic integration with the Mainland. Initiatives like the Shenzhen-Hong Kong Stock Connect and the China-Hong Kong Bond Connect allow Beijing to deepen economic integration with the world, attract foreign investment, and enhance the international use of the renminbi. At the same time, signs are emerging that Hong Kong’s importance as a gateway to China may be reduced in the future as China’s own markets gain sufficient international standing.

Recommendations

The Commission recommends:

- Congress reauthorize annual reporting requirements of the United States-Hong Kong Policy Act of 1992, in an effort to ensure policymakers have the most up-to-date and authoritative information about developments in Hong Kong. The report should include an assessment of whether Hong Kong has maintained a “sufficient degree of autonomy” under the “one country, two systems” policy, among other developments of interest to the United States.
- Congressional committees of jurisdiction examine and analyze potential U.S. policy options toward Hong Kong, including those to impose costs on Beijing for not abiding by its commitments to the territory, given mainland China’s increased intrusions into Hong Kong’s autonomy.
- Members of Congress participate in congressional delegations to Hong Kong and meet with Hong Kong officials, legislators, and business representatives in the territory and while they visit the United States. In these meetings, they should raise concerns about Beijing’s adherence to the “one country, two systems” policy and the recent crackdown on prodemocracy activists, including the imprisonment of Joshua Wong and others. They should also continue to express support for freedom of expression and rule of law in Hong Kong.

Introduction

In 2017, as mainland China and the Beijing-backed Hong Kong government celebrated the 20th anniversary of Hong Kong’s handover from the United Kingdom to China, Beijing continued to erode

the spirit of the “one country, two systems” policy that has guided its relationship with Hong Kong since 1997.* Of particular concern were efforts to remove, imprison, or otherwise silence democratically elected Hong Kong legislators and prodemocracy activists. Most notably, in August, three young activists were imprisoned for their acts of civil disobedience in an apparent attempt to intimidate and silence some of Hong Kong’s most powerful prodemocracy voices. Hong Kong authorities have signaled that they are willing to use similar tactics to prosecute and imprison other activists and prodemocracy lawmakers. These and other developments have led some to suggest Hong Kong is losing its status as China’s last bastion of openness and democratic freedoms. Many fear that the territory is becoming just another Chinese city. Informing this view is the negative outlook for progress on achieving true universal suffrage, a downward trend in freedom of expression, and further challenges to the territory’s economic future amid rising competition from the Mainland and its slowing growth.

When viewed in the context of Beijing’s recent willingness to use its growing power to coerce and bully its neighbors—many of which are U.S. allies and partners—the Mainland’s intrusions into Hong Kong’s legal institutions, political process, and personal freedoms present troubling implications for the region, and accordingly for the United States. Openness and transparency within the economic and political realms in the Asia Pacific are abiding U.S. interests.

This section examines Hong Kong’s recent political developments, declining freedom of expression, economic relations with mainland China, and the implications of these developments for the United States. It is based on the Commission’s May 2017 trip to Hong Kong, meetings with U.S. government officials, consultations with U.S. and foreign nongovernmental experts, and open source research and analysis.

Hong Kong’s Political Developments

The September 2016 elections for Hong Kong’s legislature, the Legislative Council (LegCo), saw prodemocracy candidates win 30 of 70 total seats in a record voter turnout despite Beijing’s heavy-handed pressure to stifle support for the prodemocracy camp.¹ Since then, mainland China has increased its interference in Hong Kong’s political affairs. Beijing’s use of wide-reaching legal measures and other intrusions into Hong Kong’s democratic institutions are further strengthening the central Chinese government’s control over Hong Kong. Prodemocracy activists in Hong Kong and international observers have expressed concern that Beijing’s actions are undermining confidence in the “one country, two systems” policy as guaranteed under the 1984 Sino-British Joint Declaration[†] and Hong Kong’s mini constitution, the Ba-

*The “one country, two systems” policy is a measure adopted by the People’s Republic of China following the establishment of Hong Kong and Macau as Special Administrative Regions. The framework grants Hong Kong and Macau the right to self-govern their economies and political systems to a certain extent, excluding foreign affairs and defense. Beijing has promised the policy will remain intact until 2047. China’s State Council Information Office, *The Practice of the “One Country, Two Systems” Policy in the Hong Kong Special Administrative Region*, June 10, 2014.

[†]According to the 1984 Sino-British Joint Declaration, Hong Kong “will enjoy a high degree of autonomy, except in foreign and defense affairs,” and retain its democratic freedoms, which “will remain unchanged for 50 years” (effective as of the United Kingdom’s handover of Hong Kong to

sic Law.² A number of key developments in the aftermath of the 2016 LegCo elections demonstrate Beijing's steady erosion of the "one country, two systems" framework and may portend further aggressive actions impeding Hong Kong's autonomy.

The Political Spectrum in Hong Kong

For more than 30 years, two main camps have dominated Hong Kong politics: pro-Beijing (or "pro-establishment") and prodemocracy (or "pandemocrats"). The pro-establishment camp comprises individuals and groups supporting closer ties with China—particularly in economic relations—and includes members of the business community, among others. On the other side, the pandemocrats support the protection of civil liberties for Hong Kong residents and are wary of Beijing's encroachment into Hong Kong's democratic institutions; they include rights activists and other groups.³ Both camps have diversified over time—especially since 2010*—splitting into new political parties and holding a range of views on the challenges facing Hong Kong.⁴

In recent years, the pandemocrats have become even more diverse as mainland China has continued to deny their calls for democratic reform. The 2014 Occupy Central prodemocracy protests† resulted in Beijing refusing to concede to the protestors' demands and reflected a generational change within the camp: the young, post-Occupy democrats tend to favor a more confrontational approach toward Beijing in pursuing democratic reforms, whereas previous generations dominated by the traditional, older cohort generally favored pursuing reforms through negotiations with the central government and working within the Basic Law.⁵ Despite the wide range of views and approaches within the prodemocracy camp, Joshua Wong—secretary-general of Demosistō, a political party formed and led by students involved in the Occupy protests—told the Commission during its May 2017 trip to Hong Kong that a great deal of solidarity still exists.⁶

Political parties formed in the aftermath of the Occupy protests reflect the widening views within the prodemocracy camp. One

China on July 1, 1997). These commitments by mainland China are included in Hong Kong's Basic Law, adopted by China's National People's Congress. Basic Law, *Chapter I: General Principles*. http://www.basiclaw.gov.hk/en/basiclawtext/chapter_1.html; United Kingdom, *Sino-British Joint Declaration on the Question of Hong Kong*, 1984.

*According to Richard Bush, senior fellow at the Brookings Institution, this diversification of political parties can be traced back to 2010, when Beijing reached a compromise with moderate democrats to create five new District Council functional constituency seats in LegCo. Instead of the District Council members voting on these seats, they would be voted on by more than three million voters not part of another functional constituency, effectively shifting the number of seats elected by popular vote to 40 out of 70 total. Dr. Bush argues the main driver for this shift in party diversification is Beijing's refusal to grant the pandemocrats concessions on democratic reform. He also notes that Hong Kong's electoral system is a contributing factor through its use of proportional representation for the 35 geographic constituency seats elected by popular vote. Richard C. Bush, *Hong Kong in the Shadow of China: Living with the Leviathan*, Brookings Institution Press, 2016, 41–45.

†The Occupy movement (also referred to as Occupy Central with Love and Peace, the "Umbrella Movement," and the "Umbrella Revolution") advocated for true universal suffrage according to international standards in future Hong Kong elections. The largely nonviolent protests lasted 79 days and concluded in December 2014. For more information on the 2014 prodemocracy protests, see U.S.-China Economic and Security Review Commission, *2014 Annual Report to Congress*, November 2014, 523–527. For more information on Hong Kong's political groups in the run-up to the 2016 LegCo elections, see U.S.-China Economic and Security Review Commission, *2016 Annual Report to Congress*, November 2016, 406–407.

The Political Spectrum in Hong Kong—Continued

group identifies as “localist”—a political minority predominately comprising students belonging to political parties that support some or all of the following policies: self-determination (the notion that Hong Kong citizens should be able to determine the political future of the territory), the preservation of Hong Kong’s culture, and outright independence. Of the 30 prodemocracy candidates who won seats in the September 2016 LegCo elections, eight are localists. Notably, two of the eight are supporters of Hong Kong independence (discussed later in this section).⁷ Beijing has become particularly worried about this political track. During a May 2016 visit to Hong Kong, Zhang Dejiang, Chinese Communist Party (CCP) Politburo Standing Committee member and director of the Hong Kong and Macau Affairs Leading Group,* said, “If we forgo ‘one country, two systems’ and the Basic Law, Hong Kong would undoubtedly rot. Any advocacy for self-determination, Hong Kong independence, and the like will not succeed.”†⁸

Oath Controversy

As is the case following all LegCo elections, the newly elected legislators were required to take their oath of office before officially becoming lawmakers. In October 2016, during the oath-taking ceremony, at least 11 legislators reportedly deviated from the official script, added words before or after the oath, or used the platform to criticize Beijing.⁹ This act was not without precedent; the ceremony traditionally has been used by newly elected LegCo members to express their views and policies—including those against the central government—by not following the official script.¹⁰ Nonetheless, for only the second time since the handover of Hong Kong to China in 1997, the president of LegCo ruled that the oaths of five elected legislators from prodemocracy and pro-establishment parties were invalid; according to the procedural rules of LegCo, they could not attend a meeting or vote in LegCo until properly reading their oath.¹¹ Out of these five lawmakers, all were allowed to retake their oaths¹² except for two: Sixtus “Baggio” Leung Chung-hang and Yau Wai-ching, members of the localist Youngspiration party and supporters of Hong Kong independence. Mr. Leung used a derogatory name for China in his oath reading and draped a banner over his shoulders that read, “Hong Kong Is Not China.” As Ms. Yau took her oath of office, she used profane language when saying “People’s Republic of China,” according to the LegCo clerk overseeing the oath, and displayed the same banner her colleague used. Both pledged their allegiance to the “Hong Kong nation,” diverting from the official script.¹³

*Zhang Dejiang took over as head of the leading group when Xi Jinping became the general secretary of the CCP and president of China in early 2013. President Xi was director of the leading group from 2008 to 2013 when he served on the CCP Politburo Standing Committee and as vice president. Richard C. Bush, *Hong Kong in the Shadow of China: Living with the Leviathan*, Brookings Institution Press, 2016, 101.

†For more information on Hong Kong’s political developments in recent years, see U.S.-China Economic and Security Review Commission, *2016 Annual Report to Congress*, November 2016, 406–409.

In response, Beijing, the Hong Kong government, and pro-establishment lawmakers denounced the two elected legislators for offending the Chinese people.¹⁴ Further, the Hong Kong government called for barring the lawmakers from re-taking their oaths for violating Article 104 of the Basic Law—promising to uphold the Basic Law and swearing allegiance to the Hong Kong Special Administrative Region of the People’s Republic of China.¹⁵ The Hong Kong government filed a judicial review application challenging the validity of the oaths taken by Mr. Leung and Ms. Yau and applied for an injunction seeking to deny them a chance to retake their oath. Hong Kong’s High Court rejected the injunction request but decided to grant a judicial review hearing in early November 2016 to determine whether the two lawmakers overstepped the Basic Law.¹⁶ In the meantime, Mr. Leung and Ms. Yau indicated that when re-taking their oath of office they would read directly from the script as required and avoid further controversy.¹⁷ However, pro-establishment legislators prevented them from doing so by staging a walkout during the next LegCo meeting, which resulted in the lack of a quorum to proceed with the oath-taking ceremony and other business.¹⁸ The president of LegCo subsequently decided to suspend the retaking of oaths for the two lawmakers until after the court’s decision.¹⁹

Beijing’s Interference in the Case

As Hong Kong’s High Court deliberated over the case raised by the Hong Kong government, Beijing preempted the court’s ruling by issuing a rare interpretation of the Basic Law, its fifth such intervention since the 1997 handover of Hong Kong to China and the first during a pending court case without being requested by the Hong Kong government or judiciary.*²⁰ On November 7, 2016, the National People’s Congress Standing Committee of the People’s Republic of China (NPCSC) issued an interpretation of Article 104 of the Basic Law stating that all legislators must read their required oath “accurately, completely, and solemnly” the first time or face disqualification.²¹ At the press conference announcing the interpretation, NPCSC Basic Law Committee Chairman Li Fei said it would have retroactive effect.† Beijing’s intervention, combined with other pressure from mainland officials and pro-China entities,²² effectively disqualified Mr. Leung and Ms. Yau from LegCo before the High Court’s decision.

On November 15, Hong Kong’s High Court held that mainland China’s legal interpretation is binding on the Court and that the two elected legislators were disqualified and their seats vacated in LegCo.²³ The judge who ruled in the case said the court would have reached the same conclusion “with or without” the interpretation from Beijing.²⁴

Nonetheless, Beijing’s interpretation of the Basic Law and the barring of Mr. Leung and Ms. Yau from LegCo caused apprehension

*Under Article 158 of the Basic Law, the National People’s Congress Standing Committee of the People’s Republic of China is granted this power to interpret the Basic Law. Basic Law, *Chapter VIII: Interpretation and Amendment of the Basic Law, Article 158*.

†The committee did not specify the interpretation’s retroactive effect in its written decision, nor any reference to the pending legal case. Radio Television Hong Kong, “HK Courts Must Decide on Scope of Interpretation,” November 11, 2016; Tony Cheung et al., “Hong Kong Will Move on Controversial Security Law, CY Leung Says, as Beijing Bars Independence Activists from LegCo,” *South China Morning Post*, November 7, 2016.

across Hong Kong society about the implications for Hong Kong's rule of law and autonomy, particularly the independence of its judiciary.²⁵ During the Commission's trip to Hong Kong in May 2017, several interlocutors emphasized that the independent court system is fundamental to Hong Kong's autonomy.²⁶

- After the central government confirmed it would intervene in the then pending Hong Kong legal case on the oath controversy, opponents of Beijing's move staged several large-scale demonstrations. Just prior to the Mainland's decision, prodemocracy activists led a protest involving 13,000 protestors, according to organizers (Hong Kong authorities reported 8,000 people in attendance).²⁷ Following Beijing's intervention, another protest over the Mainland's erosion of Hong Kong's legal institutions took place, involving more than 1,000 Hong Kong lawyers all dressed in black.²⁸
- Hong Kong legal groups issued statements critical of Beijing's intervention. The Hong Kong Bar Association stated: "The Bar considers the timing of [Beijing's interpretation] at this highly sensitive moment ... most unfortunate, in that the perception of the international community in the authority and independence of the judiciary is liable to be undermined, as would public confidence in the rule of law in Hong Kong."²⁹ The Law Society of Hong Kong, a professional association of Hong Kong solicitors, said, "[We] believe the NPCSC should exercise restraint in invoking its power under [Article 158] to maintain confidence in One Country, Two Systems and the Rule of Law in Hong Kong."³⁰

Implications and Consequences of Beijing's Interference

The backlash against these elected legislators could have significant consequences for the representation of prodemocracy views in LegCo and the independence of Hong Kong's judicial system. Following Beijing's interpretation of the Basic Law, then Chief Executive Leung Chun-ying (CY Leung) initiated additional judicial review cases against four prodemocracy lawmakers—Nathan Law Kwun-chung, "Long Hair" Leung Kwok-hung, Lau Siu-lai, and Edward Yiu Chung-yim—over their oaths of office.³¹

Beijing had already laid the groundwork for the case against these lawmakers. At the NPCSC press conference in November 2016 announcing Beijing's interpretation, Chairman Li said that in addition to the decision being retroactive, seeking "national self-determination" for Hong Kong is "essentially" the same as supporting independence.³² Although none of the four legislators support outright independence, Mr. Law and Ms. Lau advocate self-determination for Hong Kong.³³ In July 2017, the High Court ruled to disqualify and vacate the four lawmakers' seats based on invalid oaths, though Mr. Leung and Ms. Lau later filed appeals which remain pending.³⁴ In addition to the six legislators already removed over purported improper oaths, as of early October 2017 two prodemocracy lawmakers risk losing their seats over charges stemming from the 2014 Occupy

protests.* More prodemocracy legislators could face potential disqualification and removal from LegCo as well: two days after the NPCSC announced its interpretation of the Basic Law, Wang Zhenmin, legal chief of China's Central Liaison Office in Hong Kong, reportedly said 15 lawmakers "messed up" their oaths.³⁵ Hong Kong's Electoral Affairs Commission is planning to hold by-elections for four of the vacated LegCo seats (not including the two legislators with pending appeal cases) in March 2018, but they have not specified rules for candidates running for these seats.³⁶ Nevertheless, the potential for the removal of at least eight elected prodemocracy lawmakers from LegCo has major implications for Hong Kong's political future.

With six prodemocracy legislators forced to vacate their seats over the oath controversy, pro-establishment lawmakers temporarily hold a majority of geographic constituency seats in LegCo (until the vacant seats are filled through by-elections or several prodemocracy lawmakers win their appeals). Importantly, this negates the prodemocracy camp's ability to filibuster.† Pandemocrats fear pro-Beijing lawmakers can now pass a controversial and long-delayed national security law that would further degrade Hong Kong's autonomy.³⁷ Article 23 of the Basic Law states that Hong Kong "shall" enact such legislation, which would grant the Hong Kong government broad power to detain or prosecute individuals deemed a threat to mainland China and shut down any nongovernmental organization or body with foreign ties.‡³⁸ In the aftermath of Beijing's recent interpretation of the Basic Law, then Chief Executive Leung said that given the current political atmosphere in Hong Kong, he would consider reintroducing the national security legislation, which the Hong Kong government attempted to pass in 2003 but ultimately withdrew and indefinitely postponed because of widespread public opposition.³⁹ In May 2017, Zhang Dejiang made a high-profile speech emphasizing the Xi Administration's hardline views on Hong Kong governance, calling for tighter control over the Hong Kong government and for Hong Kong to pass the national security law.⁴⁰

If the pro-establishment camp reaches a two-thirds majority in LegCo through a combination of vacated seats previously held by prodemocracy lawmakers and winning by-elections to replace them,

*The High Court has already ruled to disqualify Yau Wai-ching, Sixtus Leung, Nathan Law, "Long Hair" Leung Kwok-hung, Lau Siu-lai, and Edward Yiu Chung-yim, after determining their oaths were invalid. Tanya Chan and Shiu Ka-chun face the charge of incitement to commit public nuisance and incitement to incite public nuisance related to their involvement in the 2014 Occupy movement. Kris Cheng, "Hong Kong Court Suspends Legal Challenge to Oust Two More Pro-Democracy Lawmakers," *Hong Kong Free Press*, July 31, 2017; Phoenix Un and Phoebe Ng, "Occupy Leaders Charged—Activists Face Public Nuisance Allegations," *Standard*, March 28, 2017.

†The LegCo is composed of 40 seats elected directly by Hong Kong voters—35 in the geographic constituency and 5 through the District Council—and 30 functional constituency seats picked by electors composed of business groups and a variety of interest groups and organizations. For a motion, bill, or amendment to proceed in LegCo, it requires majority support from both the geographic and functional constituencies. With six prodemocracy lawmakers forced to vacate their seats, the pandemocrats hold 14 seats in the geographic constituency (out of their 24 total seats in LegCo), while the pro-establishment camp has 16 seats (out of their 40 total). Jason Y. Ng, "FAQ: How Might the Ejection of 4 More Pro-Democracy Lawmakers Alter Hong Kong's Political Landscape?" *Hong Kong Free Press*, July 18, 2017; Suzanne Pepper, "Another Post-Occupy Election," *Hong Kong Focus*, September 8, 2016.

‡In 2009, Macau, the other special administrative region of the People's Republic of China, passed its own national security law under Article 23 of Macau's Basic Law. Congressional-Executive Commission on China, *Macau Special Administrative Region National Security Law*, July 20, 2009.

the Hong Kong government could reintroduce and possibly pass amendments to the Basic Law that pandemocrats have opposed in the past. One potential amendment that could be floated is the electoral reform proposal that was last considered in 2015.⁴¹ This proposal, which Beijing has championed, would allow Hong Kong to elect its chief executive via popular vote, but would use a nomination mechanism that effectively bars democratic candidates from standing for election and guarantees the ultimate selection of a Beijing-approved candidate.^{*42}

The NPCSC's interpretation of the Basic Law and the High Court's subsequent ruling to remove six LegCo members constrains Hong Kong's rule of law and political space, according to observers.⁴³ Eddie Chu, a prodemocracy lawmaker and the largest recipient of total votes in the 2016 LegCo election, said, "[Beijing's interpretation] will definitely restrict freedom of speech ... as now [Beijing] has a new legal weapon to hit out at lawmakers. The Basic Law no longer protects the democratic rights of Hongkongers but is being used as an instrument to take away our rights."⁴⁴ Mainland China's tactic to use legal tools to retroactively remove more democratically elected representatives in LegCo could further intensify opposition against Beijing among prodemocracy advocates.⁴⁵

Election Committee Selects Beijing's Preferred Candidate as Chief Executive

In December 2016, then Chief Executive Leung announced he would not run for a second term as chief executive—the first time a sitting chief executive has not sought reelection—setting the stage for a new leader.⁴⁶ Popular support was in favor of former Finance Secretary John Tsang Chun-wah,⁴⁷ a pro-establishment candidate (albeit less pro-Beijing than the Mainland's preferred candidate Carrie Lam Cheung Yuet-ngor) who campaigned on reducing the polarization in Hong Kong politics and had the backing of much of the prodemocracy camp.⁴⁸ Nonetheless, in March 2017, a 1,194-member election committee stacked heavily in favor of Beijing and representative of only 0.03 percent of eligible voters voted overwhelmingly for Ms. Lam, who received 777 out of 1,163 total votes.⁴⁹ Mr. Tsang came in second place with 365 votes.⁵⁰ Ms. Lam, who became the first female chief executive of Hong Kong,⁵¹ previously served as chief secretary—the second most powerful position in the Hong Kong government—under CY Leung during his term as chief executive (2012–2017).[†] Leading up to the vote, Hong Kong media widely reported that Beijing officials had decided to support Ms. Lam for chief executive before she entered the race and conveyed this message in February 2017 to Hong Kong business leaders and pro-establishment figures at meetings in Shenzhen.⁵² According to

*When the LegCo voted on the proposal in 2015, it rejected the package. Although the Hong Kong government supported the proposal as a baseline for future reforms, and pro-establishment legislators voted for the proposal, prodemocracy legislators believed it allowed Beijing to "screen" candidates it opposes, and prevented the proposal from moving forward. For a more in-depth examination of the electoral reform process, see U.S.-China Economic and Security Review Commission, *2015 Annual Report to Congress*, November 2015, 533–537; Richard C. Bush, *Hong Kong in the Shadow of China: Living with the Leviathan*, Brookings Press, 2016, 121, 130–134.

†Notably, Ms. Lam was responsible for crafting and promoting the Hong Kong government's electoral reform proposal based on Beijing's August 2014 reform package. Chris Buckley and Alan Wong, "Hong Kong Presents Plan for Elections, Offering Little to Democrats," *New York Times*, April 22, 2015.

Suzanne Pepper, a Hong Kong-based U.S. observer of Hong Kong politics, “Beijing officials have obviously decided that they no longer need to keep up appearances about non-intervention in Hong Kong affairs. Past suspicions in this regard were typically met with bland denials. ... They’ve gone so far as to remind Hong Kong that Beijing’s right to appoint [the chief executive] is substantive and they now mean to exercise [their right] without trying to pretend they’re not.”⁵³

The election of Ms. Lam as the fourth chief executive of Hong Kong appears to signal Beijing’s support for continuity with CY Leung’s administration. Although CY Leung experienced record-low public approval ratings,⁵⁴ Beijing praised his administration’s strict adherence to mainland China’s concerns, particularly its handling of political groups advocating for Hong Kong independence.⁵⁵ During one of CY Leung’s final visits to Beijing as chief executive, Chinese President and General Secretary of the CCP Xi Jinping met with him, saying, “On important issues such as curbing Hong Kong independence and street violence, you have worked in strict accordance with the Basic Law, the [NPCSC’s] interpretation of it and the law of Hong Kong, and safeguarded the nation’s sovereignty, security, and developmental interests.”⁵⁶ Several weeks prior to the chief executive election, Beijing expressed its gratitude toward CY Leung by electing him as vice chairman of mainland China’s top advisory body, the Chinese People’s Political Consultative Conference—a first for a sitting chief executive.⁵⁷ Some observers in Hong Kong believe that the Lam Administration is likely to adhere closely to Beijing’s policy goals, citing her decision to keep some of the previous administration’s cabinet officials in place, her experience serving under CY Leung, and her demonstrated loyalty to the central government.⁵⁸ Nonetheless, Chief Executive Lam has voiced the need to proceed carefully on Beijing’s political priorities, including electoral reform and national security legislation, only after gathering public support.⁵⁹

Beijing Toughens Stance on Handover Agreement and “One Country, Two Systems” Framework

Beijing used the occasion of the 20th anniversary of the handover of Hong Kong to China to launch broadsides against the bedrock of protections afforded to Hong Kong: the 1984 Sino-British Joint Declaration and the “one country, two systems” framework. Beijing’s public statement on the eve of the July 1 anniversary disavowed the Joint Declaration. China’s Foreign Ministry spokesperson said, “It has already been 20 years now since Hong Kong returned to the embrace of the motherland; the Sino-British Joint Declaration as a historical document, possesses no practical significance of any kind, and has no binding force of any kind with respect to the central government’s administration of the Hong Kong Special Administrative Region.”⁶⁰ A spokesperson for the British Foreign Office responded, “[The Joint Declaration] remains as valid today as it did when it was signed over 30 years ago. It is a legally binding treaty, registered with the UN and remains in force.”⁶¹ More than one week

*The United Kingdom’s official responses to the Mainland’s increasing encroachment on Hong Kong’s autonomy and freedom of expression have been muted. Chris Patten, the last British gov-

later, on the sidelines of an international law conference in Hong Kong, Director General of China's Foreign Ministry Treaty and Law Department Xu Hong tried to clarify his colleague's comments, saying that the Joint Declaration is still legally binding but Great Britain has no right to interfere in China's "domestic affairs."⁶² Nonetheless, Beijing's willingness to disregard the document, which laid the groundwork for the Basic Law, is expected to lead to further encroachment on Hong Kong's autonomy.

On July 1, 2017, after swearing in Ms. Lam as chief executive, President Xi gave a speech marking the 20th anniversary of the handover, which focused on the "one country, two systems" framework. In the speech, President Xi stressed Beijing's control over Hong Kong, using stronger rhetoric than the CCP has used in the past to warn against those obstructing mainland China's sovereignty over the territory. He said:

*'One country' is like the roots of a tree. For a tree to grow tall and luxuriant, its roots must run deep and strong. The concept of 'one country, two systems' was advanced, first and foremost, to realize and uphold national unity. ... Any attempt to endanger China's sovereignty and security, challenge the power of the central government and the authority of the Basic Law of the [Hong Kong Special Administrative Region] or use Hong Kong to carry out infiltration and sabotage activities against the Mainland is an act that crosses the red line, and is absolutely impermissible.*⁶³

In the speech, President Xi also indirectly signaled Beijing's priorities for Hong Kong, on patriotic education and the national security law.⁶⁴ The speech appears to suggest mainland China will proceed with a heavy-handed approach on Hong Kong policy moving forward and work to ensure Chief Executive Lam strictly implements Beijing's policies.

The Chinese Military in Hong Kong: Highlighted in Handover Anniversary and Signs of a Larger Role

During President Xi's visit to Hong Kong, the People's Liberation Army's (PLA) Hong Kong Garrison staged its fifth and largest military parade since arriving in the territory in 1997, involving more than 3,100 officers and troops and more than 100 pieces of military equipment.⁶⁵ President Xi inspected 20 squads, including a newly established logistics unit from the garrison's Shenzhen base.⁶⁶ Observers viewed the parade as a further demonstration of China's sovereignty over Hong Kong and a message against pro-independence activists.⁶⁷ Shortly after President Xi departed Hong Kong, China's aircraft carrier *Liaoning* visited the territory for the first time, and the PLA Navy opened the ship to the public—another first.⁶⁸ The five-day port call in Hong Kong appeared to be designed to promote feelings of patriotism among

ernor of Hong Kong, criticized the British government's response to "outrageous breaches" of the Joint Declaration as little more than "a slightly embarrassed clear of the throat." Tom Phillips, "Chris Patten: A Craven Britain Has Demeaned Itself with China, Brexit Will Make It Worse," *Guardian*, June 28, 2017.

The Chinese Military in Hong Kong: Highlighted in Handover Anniversary and Signs of a Larger Role—*Continued*

Hong Kong citizens and to demonstrate the PLA's growing capabilities.⁶⁹ While the PLA has maintained a relatively low profile over the 20 years it has been in Hong Kong,⁷⁰ recent signs suggest a larger role for the garrison. In a June 2017 article in the CCP's Central Party School journal *Qiushi*, the Commander of the PLA's Southern Theater Command Vice Admiral Yuan Yubai and Political Commissar Wei Liang of the Southern Theater Command wrote, "[The garrison] has been adapting to the new situation and task requirements and transformed from a symbolic presence to a show of force, from image building to combat capability development."⁷¹ Garrison exercises in recent years seem to reflect this change, as they have demonstrated increased complexity and a greater diversity of missions.* In November 2016, garrison personnel participated alongside other Southern Theater Command units in a humanitarian rescue exercise with Malaysia, which marked the first time the garrison exercised with a foreign military.⁷²

Beijing's Degradation of Rule of Law in Hong Kong

According to Article 22 of the Basic Law, no mainland government entity may interfere in Hong Kong affairs, and thus only Hong Kong's law enforcement agencies are allowed to enforce laws and take related actions within the territory. However, in recent years, mainland China has disregarded this provision—a development that has resulted in further encroachment on Hong Kong's autonomy. The most prominent example is the apparent abduction and detention in late 2015 of five sellers of political gossip books banned in mainland China. The incidents reportedly involved mainland authorities engaging in illegal cross-border law enforcement for supposed crimes committed by individuals tied to Causeway Bay Books, a Hong Kong bookstore and publishing house. One of the booksellers, Lee Bo, a British citizen and shareholder of Hong Kong publishing house Mighty Current (which owned Causeway Bay Books), reportedly was abducted from Hong Kong and brought across the border into mainland China.⁷³ The abductions continue to reverberate in Hong Kong and remain unresolved.† While four of the booksellers have since been released, one of them—Gui Minhai—remains in custody in the Mainland after going missing from his Thailand vacation home in October 2015. Mr. Gui, a Swedish national, is also a Mighty Current shareholder.‡⁷⁴ The incidents have caused anxiety among many observers in Hong Kong. These observers, ranging

*For more information on the Hong Kong Garrison's exercises in recent years, see U.S.-China Economic and Security Review Commission, *2016 Annual Report to Congress*, November 2016, 423–424.

†For more information about the incident and the timeline of events, see U.S.-China Economic and Security Review Commission, *2016 Annual Report to Congress*, November 2016, 409–413.

‡The Hong Kong government is unlikely to seek the release of Mr. Gui. Prior to the inauguration of Chief Executive Lam, in an interview with CNN about the missing bookseller, she said, "It would not be appropriate for [the Hong Kong government] to go into the Mainland or challenge what happens on the Mainland." James Griffiths and Kristie Lu Stout, "Incoming Hong Kong Leader Says She Defers to China on Missing Booksellers," CNN, June 23, 2017.

from prodemocracy activists to foreign business leaders operating in Hong Kong, assert that Beijing's actions in this case are among the key factors leading the recent erosion of the "one country, two systems" framework.⁷⁵

Chinese Billionaire Apparently Abducted from Hong Kong

The apparent abduction of mainland-born billionaire and Canadian citizen Xiao Jianhua,* a Hong Kong resident, in late January 2017 raised further concerns in Hong Kong about the territory's legal protections and the "one country, two systems" framework.⁷⁶ Mr. Xiao is the founder of the Beijing-based Tomorrow Group investment firm, which has international holdings in real estate, insurance, banking, and coal. He reportedly was escorted by mainland agents in a wheelchair, his head covered by a sheet, from his Four Seasons apartment in Hong Kong where he had been living for years, and taken across the border into mainland China.⁷⁷ Hong Kong law enforcement authorities confirmed Mr. Xiao exited border control in Hong Kong.⁷⁸

It is unclear why Mr. Xiao was apparently made to leave Hong Kong. He is known to have deep business connections with the families of top Chinese officials in Beijing, including President Xi and his political adversaries, such as former CCP Politburo Standing Committee member Zeng Qinghong. This suggests he may have been detained for political reasons prior to Beijing's leadership transition in October 2017, according to some analysts.⁷⁹ In early February, Hong Kong newspaper *South China Morning Post* cited several sources that said Mr. Xiao is on the Mainland "assisting investigations" into China's 2015 stock market turbulence and the corruption case of former Vice Minister of State Security Ma Jian.⁸⁰

The circumstances of Mr. Xiao's departure are suspicious, even though security camera footage appears to show him departing his residence unforced. In the immediate aftermath of the incident, Mr. Xiao's family members and company spokesperson seemingly tried to reassure the public and stakeholders that there was no foul play involved.⁸¹ One of Mr. Xiao's relatives reportedly filed a missing persons report, but then withdrew it soon after, indicating he was safe.⁸² Several days later, a front page ad under his name appeared in the Hong Kong-based *Ming Pao* newspaper. According to the ad, he was seeking medical treatment "outside the country" and "had not been abducted to the mainland."⁸³ However, a source close to Mr. Xiao said the ad had been quickly produced by members of his family, company, and lawyers to try to temper any speculation that he was removed from Hong Kong under duress.⁸⁴ Another source said the ad was published to appease Beijing, which wanted to keep the incident quiet.⁸⁵ As this Report went to print, Mr. Xiao remains in mainland China.

Some observers in Hong Kong assess the incident is another example of Beijing eroding Hong Kong's legal protections. According

*Mr. Xiao also held a diplomatic passport from Antigua and Barbuda (a Caribbean island nation) as an ambassador-at-large, which granted him the ability to "promote investment, trade and commerce, business and tourism development, and negotiate with the authorities and business entities of all states and territories," but it is unclear whether the passport was renewed. Niall Fraser, "Missing Tycoon Xiao Jianhua Had Diplomatic Passport from Caribbean State," *South China Morning Post*, February 16, 2017; Benjamin Haas, "The Darkest Time: Hong Kong Reels over Bizarre Disappearance of Chinese Billionaire," *Guardian*, February 12, 2017.

to Mr. Law, then lawmaker from the prodemocracy party Demosistō, “This is the darkest time for Hong Kong’s human rights and freedom. We used to think being taken away in the middle of the night would only happen in mainland China, but it happens in Hong Kong now.”⁸⁶ Mr. Xiao’s case appears to provide further evidence that Beijing has become even more brazen in violating Hong Kong’s autonomy since the bookseller abductions. Hong Kong political commentator Ching Cheong asserts that the incident is having a chilling effect on “mainland tycoons who have taken refuge in Hong Kong, thinking that Hong Kong will still be a safe place outside the jurisdiction of China.”⁸⁷ Moreover, the apparent abduction of Mr. Xiao appears to reflect the growing trend in recent years of Beijing being willing to treat anyone of Chinese descent as a Chinese citizen, regardless of legality.⁸⁸

Hong Kong Rail Terminal Proposal Raises Concerns about Undermining Rule of Law

In July 2017, the Hong Kong government announced a proposal for implementing Hong Kong and mainland China customs, immigration, and quarantine procedures at a new terminal under construction, which will serve as a high-speed rail link connecting Hong Kong with the neighboring mainland cities of Shenzhen and Guangzhou in Guangdong Province. Scheduled to open in the third quarter of 2018, the proposal includes allowing mainland officers to enforce mainland laws in the “Mainland Port Area,” which comprises about one quarter of the five-story terminal.*⁸⁹ Chief Executive Lam and other government officials argue the plan would be more efficient in terms of cost and travel time compared with the alternative of having separate immigration checks in Hong Kong and mainland China. Nonetheless, critics fear the move could serve as a precedent for Beijing to further increase its legal jurisdiction over Hong Kong and degrade Hong Kong’s autonomy.⁹⁰ China’s NPCSC must still approve the use of Article 20 in the Basic Law—granting Hong Kong the power to lease its land to the Mainland—and the LegCo must pass legislation for the project to proceed. Both are likely given positive signals from mainland officials and the pro-establishment majority in LegCo.⁹¹

Declining Freedom of Expression in Hong Kong

Under Chapter III of the Basic Law, Hong Kong residents are guaranteed civil liberties and a number of freedoms found in most open, democratic societies: freedom of speech, assembly, and press; and academic freedom.⁹² Since 2012, when President Xi took power in mainland China and CY Leung became chief executive, challenges to these freedoms have continued to accumulate, resulting in a gradual decline in freedom of expression in Hong Kong. In 2017,

*At the proposal’s announcement in July, the Hong Kong government said it was not yet aware if the Mainland’s Internet restrictions will also be in place within the section of the terminal under the Mainland’s jurisdiction. Hong Kong Special Administrative Region, *Transcript of Remarks at Press Conference on Co-Location Arrangement of Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link*, July 25, 2017.

some of these challenges have accelerated—especially in freedom of speech and assembly—as evident in the major crackdown on prodemocracy activists.

Increasing Pressure on Hong Kong Prodemocracy Activists

During the lead-up to Ms. Lam’s July 1, 2017 inauguration, Hong Kong authorities arrested 20 prodemocracy legislators and activists in a crackdown that further eroded freedom of expression in Hong Kong. One day after Ms. Lam won the chief executive election in March 2017, police arrested and charged three of the leaders of the 2014 Occupy protests and six prodemocracy lawmakers and activists. Each charge carries up to seven years in jail if convicted.⁹³ According to some interlocutors with whom the Commission met in Hong Kong in May 2017, Ms. Lam was not consulted about the arrests.⁹⁴ Several of those arrested blamed CY Leung, asserting he designed the move to apply pressure on Ms. Lam.⁹⁵ Mabel Au, director of Amnesty International Hong Kong, said, “The authorities have had years to consider these cases. The timing of these charges ... raises serious questions as to whether political maneuverings were a factor in the decision to bring charges now.”⁹⁶

The following month, 11 more prodemocracy activists were arrested and charged with various crimes, including unlawful assembly, causing disorder in public places, and attempted forced entry into LegCo. Sixtus Leung and Yau Wai-ching—the elected pro-independence lawmakers who were subsequently disqualified from LegCo for changing their oaths of office—were among the group arrested.⁹⁷ As this Report went to print, these arrested prodemocracy legislators and activists had not been tried in court.

Critics viewed the arrests as a coordinated campaign to stifle dissent prior to Chief Executive Lam’s inauguration (for which President Xi was present), held on the 20th anniversary of the handover of Hong Kong to China.⁹⁸ For President Xi’s visit, the Hong Kong government deployed more than one-third of its police force (around 11,000 officers) and largely placed the city on lockdown, according to observers.⁹⁹ Nonetheless, in the days leading up to the handover anniversary, prodemocracy activists staged two protests at the Golden Bauhinia—a monument presented to Hong Kong by the Mainland in 1997 to celebrate the handover and the site of the inauguration ceremony.¹⁰⁰ The second protest ended with the arrest of all 26 participants (who were later released), including two LegCo lawmakers and Mr. Wong.¹⁰¹ On July 1, the annual prodemocracy march calling for universal suffrage and the preservation of civil liberties in Hong Kong continued as planned, but the Hong Kong authorities denied organizers their usual starting location in Victoria Park for the first time since 2003. Instead, a pro-Beijing group, Hong Kong Celebrations Association, obtained the rights to use the park.¹⁰²

⁹³More than 250 Hong Kong scholars and nearly 500 overseas academics signed a statement criticizing the move, citing “widespread concern” that the decision to proceed with the arrests would have chilling effects across society, lead to further persecution of those involved in the Occupy protests, and damage Hong Kong’s reputation as a free and open society. Scholars Alliance for Academic Freedom, “Statement by International and Hong Kong Scholars to Protest against Hong Kong SAR Government’s Prosecution of Activist Scholars and Umbrella Movement Participants,” June 29, 2017.

After Chief Executive Lam took office in July 2017, the crack-down on prodemocracy activists escalated with the imprisonment of three student leaders from the 2014 Occupy protests—Mr. Wong, Mr. Law, and Alex Chow Yong-kang, former secretary-general of the Hong Kong Federation of Students—becoming Hong Kong’s first prisoners of conscience. The decision to seek jail time for some of the most prominent young Hong Kong prodemocracy activists appears designed by Beijing to have a chilling effect on Hong Kong’s vibrant tradition of protest and public assembly, and to keep the activists out of the legislature. In August 2017, Mr. Wong was sentenced to six months in prison, while Mr. Law and Mr. Chow received eight- and seven-month sentences, respectively¹⁰³ (all three appealed their sentence).¹⁰⁴ The ruling resulted in bans on seeking public office for five years, preventing the activists from running for a seat in the LegCo until at least the 2024 elections.¹⁰⁵ In the Court of Appeal’s reversal of a lower court’s 2016 sentence of community service for Mr. Wong and Mr. Law (which both completed) and a suspended three-week prison sentence for Mr. Chow, prosecutors from Hong Kong’s Justice Department used the appeals process, arguing that the original sentence was too lenient.¹⁰⁶ These legal tactics used to reverse earlier sentences mirrored those used by Hong Kong government prosecutors to successfully change the sentence of 13 other activists, several days earlier, from community service to jail time.¹⁰⁷ The judges in the case against the three young activists claimed there was a need to deter others from engaging in similar protests in the future.¹⁰⁸ Shortly after the sentence was announced, Mr. Wong tweeted, “[Beijing] can silence protests, remove us from the legislature, and lock us up. But they will not win the hearts and minds of Hongkongers.”¹⁰⁹

In response, the Hong Kong prodemocracy camp and international observers* denounced the ruling and voiced concern for the preservation of freedom of expression and rule of law in Hong Kong.¹¹⁰ Several days after the ruling, thousands marched in support of the 16 activists imprisoned during the previous week in what one of the organizers called the largest post-Occupy protest (police estimated about 22,000 attendees).¹¹¹ The Hong Kong government pushed back against those insisting the case was politically influenced and claimed the judges made their rulings according to the law. Chief Executive Lam said, “[The Hong Kong] courts are exercising judicial powers independently, free from any interference. So any allegation ... [of decisions made] under political interference again is totally unfounded.”¹¹²

*In addition to international human rights organizations and members of the U.S. Congress, several foreign governments issued responses to the ruling, including the U.S. Consulate General of Hong Kong and Macau, the United Kingdom, Canada, Germany’s Federal Foreign Office, and Taiwan’s Mainland Affairs Council. James Pomfret and Venus Wu, “Hong Kong Legal Chief Denies Political Motive in Jailings as Criticism Mounts,” Reuters, August 18, 2017; German Federal Foreign Office, *Human Rights Commissioner Bärbel Kofler Condemns the Imprisonment of Three Democratic Activists and Leaders of the Peaceful 2014 Occupy Central Protests to a Months-long Sentence without Parole*, August 18, 2017. Translation. http://www.auswaertiges-amt.de/DE/Infoservice/Presse/Meldungen/2017/170817_Kofler_Occupy_Central_Proteste.html; Reuters, “UK Says Jailing of Young Hong Kong Democracy Leaders Must Not Discourage Protest,” August 17, 2017; Consulate General of Canada in Hong Kong and Macau, Facebook, August 17, 2017. <https://www.facebook.com/CanadainHKandMacao/posts/1761418613888198>; Agence France-Presse, “Taipei Condemns Jailing of HK Democracy Activists,” August 17, 2017.

Hong Kong Prodemocracy Activists Bolster Ties with Taiwan Activists

As China's efforts to enhance control over both Taiwan and Hong Kong have increased in recent years, Hong Kong and Taiwan activists have forged closer ties despite Beijing's pressure to stop such cooperation.¹¹³ In June 2017, Executive Chairman of Taiwan's New Power Party Huang Kuo-chang founded a new Taiwan Congressional Hong Kong Caucus alongside other Taiwan legislators and several Hong Kong localist activists in Taipei. According to Mr. Huang, the caucus (comprised of 18 Taiwan lawmakers: 13 from the Democratic Progressive Party and 5 from the New Power Party), will focus on providing support for the Hong Kong prodemocracy movement.¹¹⁴ In response to the announcement, Beijing and pro-establishment lawmakers in Hong Kong condemned the development as "collusion between pro-independence forces."¹¹⁵

The CCP has long feared cooperation between Taiwan and Hong Kong activists, and this anxiety has become more apparent following the student-led protest movements in 2014 (Taiwan) and 2015 (Hong Kong), directed against Beijing. In recent years, the Hong Kong government has denied entry to many Taiwan activists, and a number of Taiwan academics have also been unable to obtain visas to visit the territory.¹¹⁶ Pro-Beijing groups, likely with ties to the CCP's United Front Work Department,¹¹⁷ also have played a role in applying pressure on Hong Kong activists traveling to Taiwan. In January 2017, protestors tried to attack Mr. Wong upon his arrival at the Taipei airport, when he was in Taiwan for a political conference with three Hong Kong prodemocracy lawmakers. Upon the group's return to Hong Kong, protestors assaulted Mr. Law; observers assessed these protestors were probably mobilized by Beijing.¹¹⁸

Self-Censorship and the Legacy of the Booksellers' Disappearance

Observers in Hong Kong note that self-censorship and diminished access to books that are politically sensitive in mainland China continue to persist as a result of the booksellers' incidents. According to Renee Chiang, publisher for Hong Kong-based New Century Press, a publishing house known for its political books,

*Everybody is scared. The printers ... are not willing to print political books. And the bookshops are not willing to stock political books, because now it is considered dangerous. But since the majority of readers of this kind of work are visitors from the [M]ainland, now that the customs officers have increased their surveillance and confiscation of political books, they are no longer buying them. So at both ends of the chain we have problems.*¹¹⁹

Some independent bookstores continue to sell political books, but they are more difficult to find and have far fewer customers than before the incident, according to observers.¹²⁰ At the annual Hong

Kong Book Fair in July 2017, some store managers noted the sharp increase in self-censorship among publishers of political gossip books and a significant decline in the number of these books for sale.¹²¹ Before the disappearance of the booksellers, banned books in the Mainland were commonly found at the Hong Kong International Airport but are now sparse.¹²² Notably, the Causeway Bay bookstore tied to the booksellers' incidents has since been purchased by a Chinese national.¹²³ Meanwhile, Lam Wing-kee—the only bookseller who returned to Hong Kong—announced plans to open a new Causeway Bay Books location in Taiwan in 2018 as “a symbol of resistance.”¹²⁴

Press Freedom Trending Downward

Several non-profit watchdog organizations and Hong Kong journalists point to a downward trend in press freedom in Hong Kong, largely reflecting the prevailing trajectory over the last decade. According to the annual ranking of global press freedom by Freedom House, an independent international human rights organization, in 2017 Hong Kong dropped three places to 80th among 199 countries and territories evaluated*—one of the steepest year-on-year declines in the world.¹²⁵ The main reasons for the decline were “increased mainland interference in local media as well as multiple attacks on journalists during demonstrations.”¹²⁶ Freedom House noted that the *South China Morning Post*, which was purchased in 2015 by Chinese e-commerce giant Alibaba, included a “confessional” interview with a mainland detainee—which critics asserted was designed to support Chinese government positions.¹²⁷ International non-profit Reporters Without Borders, headquartered in Paris, moved Hong Kong down four places in its 2017 World Press Freedom Index to 73rd out of 180 countries and territories.† The organization emphasized that “the media are finding it more and more difficult to cover sensitive stories about the Hong Kong government and mainland China, and the need to protect their editorial positions from Beijing’s influence is increasingly noticeable.”¹²⁸ Reporters Without Borders stated that “the erosion of Hong Kong’s media independence vis-a-vis Beijing is now underway.”¹²⁹ Notably, in April 2017 the organization decided to open its first Asia bureau in Taiwan, and not Hong Kong—originally its first choice for the office. Reporters Without Borders Secretary-General Christophe Deloire said the decision was “because of a lack of legal certainty for our entity and activities” and potential surveillance on staff members in Hong Kong.¹³⁰ In a nod toward press freedom, in September 2017 the Hong Kong government announced it would reverse its longstanding policy of banning online-only news outlets from attending government press conferences and other events.¹³¹

According to a Hong Kong Journalists Association poll, press freedom for journalists and the general public increased slightly in 2016, but remained below the “passing score,” and the situation on the ground for journalists declined.¹³² Hong Kong Journalists Association chairperson Sham Yee-lan noted that the increase was

*In this ranking, 199 represents the country or territory with the least press freedom. Freedom House, “Freedom of the Press 2017: Press Freedom’s Dark Horizon,” April 2017.

†In this ranking, 180 represents the country or territory with the least press freedom. Reporters Without Borders, “Hong Kong,” April 2017.

likely a result of the growing footprint of online media, leading to “some diversity in the industry.”¹³³ Nonetheless, of the 465 journalists surveyed in Hong Kong, 72 percent believed overall press freedom decreased in 2016.¹³⁴ The survey also indicated 97 percent of journalists and 71 percent of Hong Kong residents believed the booksellers incidents caused serious damage to press freedom.¹³⁵

***Sing Pao* Journalists Reportedly Face Harassment in Lead-up to Chief Executive Election**

In late February 2017, Sing Pao Media Enterprises, the parent company of pro-Beijing Hong Kong newspaper *Sing Pao*, issued a statement detailing mainland-affiliated harassment of its journalists and cyber attacks and intrusions targeted at their website and computer systems.¹³⁶ On February 18 and 19, the company’s website temporarily went offline in a purported cyber attack, and there were signs the perpetrators tried to gain access to information on the company’s e-mail and computer systems, according to the firm.¹³⁷ The media company also claimed that “a large number of suspicious individuals who look[ed] like Mainlanders” loitered outside the newspaper’s offices, monitoring and taking pictures of journalists.¹³⁸ Sing Pao Media Enterprises said it believed the incident was a response to a number of columns the newspaper had published criticizing then Chief Executive Leung and the Chinese government’s Central Liaison Office in Hong Kong in the run-up to the chief executive election in March 2017.¹³⁹

On the 20th anniversary of Hong Kong’s handover to China, public broadcaster Radio Television Hong Kong (RTHK) faced criticism from the Association of Veteran Hong Kong Journalists, a pro-Beijing group, upon airing its roundtable political debate show. The episode that elicited controversy focused on the “one country, two systems” framework since the handover.¹⁴⁰ The broadcaster reiterated that its duty is to reflect a wide range of views across Hong Kong society. However, the pro-Beijing journalist association said the show’s producers were “malicious” in their intent to criticize China and called for those responsible for the broadcast to face disciplinary action.¹⁴¹ As this Report went to print, the broadcaster’s staff was not reprimanded for airing the program.

Politically Motivated Censorship

Since the 2014 Occupy protests, Hong Kong prodemocracy activists and media organizations have continued to face pressure to self-censor. According to the Hong Kong Journalist Association, self-censorship remains a significant problem; in the association’s 2016 Hong Kong Press Freedom Index, which surveyed 465 journalists in Hong Kong, self-censorship occurred at a rate of 3.1 out of 10, with 0 indicating it being very common and 10 being uncommon.¹⁴² On June 30, during President Xi’s visit to Hong Kong, television station TVB rescheduled an RTHK political satire program just minutes before it was due to air; the program expressed views critical of President Xi and referenced imprisoned Chinese Nobel laureate and dissident Liu Xiaobo.¹⁴³ TVB—whose

largest shareholder and vice president is former CCP official and mainland media tycoon Li Ruigang¹⁴⁴—insisted that President Xi’s speech in Hong Kong was more important to air than the planned program. The decision brought about complaints from RTHK and accusations of self-censorship from prodemocracy observers.¹⁴⁵

RTHK itself moved closer to the Mainland in 2017, however. The public broadcaster announced that starting in September 2017, it would end its 24-hour rebroadcast of the BBC World Service—which had been ongoing since 1978¹⁴⁶—and in its place air the state-run China National Radio Hong Kong Edition. RTHK decided to keep only part of its BBC World Service rebroadcast on one of its analog stations overnight from 11 p.m. to 7 a.m. The main driver for the move, according to the broadcaster, was new regulatory requirements reducing available broadcasting space.¹⁴⁷ Amen Ng, the head of corporate communications at RTHK, stated that another reason for the change was to “enhance the cultural exchange between the Mainland and Hong Kong.”¹⁴⁸ Democratic lawmaker Claudia Mo called the decision “yet another step in the ‘mainlandization’ of Hong Kong.”¹⁴⁹

Civil society also faced pressure to self-censor. In July 2017, PEN Hong Kong, a non-profit organization that promotes writing and freedom of expression, was forced to change venues for its book event after Asia Society Hong Kong banned Joshua Wong—who had contributed to the book—from speaking at the event.¹⁵⁰ Asia Society headquarters in New York blamed “an error in judgement at the staff level” for the decision, while Mr. Wong’s political party Demosistō argued self-censorship was behind the decision.¹⁵¹ Accusations of self-censorship linked to this story spread to the United States, when a contributing author for *Forbes* wrote a profile of the Asia Society’s Hong Kong office and its billionaire chair Ronnie Chan. The article alleged Mr. Chan’s ties to Beijing were being used to influence the organization’s programming and promote Chinese interests more widely. *Forbes* quickly removed the online article and later fired the author after he reposted it on the *Asia Sentinel* website and publicly criticized *Forbes*.¹⁵²

Challenges to Academic Freedom

The sensitivity of political books and other content published in Hong Kong has increased for academics in the aftermath of the booksellers’ incidents, leading to self-censorship. Timothy O’Leary, professor in the school of humanities at the University of Hong Kong, notes, “The effect [of the booksellers’ incidents] is more likely to be a slow undermining of willingness to publish in politically sensitive areas,” as academics look to avoid trouble.¹⁵³ Edmund Cheng, associate professor at Hong Kong Baptist University, asserts that scholars face the prospect of losing invitations to conferences, particularly on the Mainland, by publishing sensitive content.¹⁵⁴ However, during the Commission’s May 2017 trip to Hong Kong, Sonny Lo, a professor at the University of Hong Kong School of Professional and Continuing Education, noted that academics are largely free to go about their work, as long as they do not join a political party.¹⁵⁵

Since 2015, the University of Hong Kong, Hong Kong's premier academic institution, has been mired in controversy over its leadership structure and its decisions regarding appointments to the university's governing council.* The University of Hong Kong made a controversial decision in 2015 to delay and ultimately reject the appointment of a prodemocracy academic for a leadership position at the university. The following year, a member of the governing council who helped block the academic's appointment and a close friend of then Chief Executive Leung, became chairman of the council. These incidents outraged many in the university community and at other academic institutions in Hong Kong, leading to class boycotts and large-scale protests.¹⁵⁶ In April 2016, the governing council formed an independent panel to review the school's governance structure and discuss potential reforms.¹⁵⁷ The panel delivered a report on this matter to the council in late February 2017, which among other things, included a recommendation to remove the chief executive's power to appoint council members. Instead of publicly releasing the panel's findings, the council formed an internal working group to "propose the necessary policies, processes, arrangements, as well as the overseeing mechanism for their implementation."¹⁵⁸ In late June 2017, the council released the February report, but decided against the panel's recommendation to remove the chief executive's power to appoint council members.¹⁵⁹ The university's student union president and council member Ed Wong Ching-tak blamed the council for "not respecting students' opinions."¹⁶⁰

Hong Kong students, who have faced mounting challenges to freely sharing and discussing pro-independence views, are at the forefront of the debate on freedom of expression. In September 2017, as the new school year began, several "Hong Kong independence" banners appeared on the Chinese University of Hong Kong's campus and were quickly removed by the university for being "illegal" and for violating the institution's policies.¹⁶¹ Soon after, banners and posters promoting independence and expressing solidarity with students at the Chinese University of Hong Kong appeared on university campuses across the territory, some of which university authorities removed and mainland students either removed or covered up with anti-independence signage.¹⁶² In response, Chief Executive Lam condemned the displays promoting independence, arguing that "Hong Kong independence runs against 'one country, two systems' and the Basic Law," and encouraged university administration to "take appropriate action."[†]¹⁶³ Thirteen university student unions issued a joint open letter denouncing the removal of the signs and Chief Executive Lam's response to the controversy. The letter also voiced concern for the erosion of freedom of speech and academic freedom on campus.¹⁶⁴

*For more information on the controversy surrounding the university's leadership and its decisions, see U.S.-China Economic and Security Review Commission, *2016 Annual Report to Congress*, November 2016, 416–417; U.S.-China Economic and Security Review Commission, *2015 Annual Report to Congress*, November 2015, 542–544.

†The heads of ten Hong Kong universities later published a rare joint statement condemning the promotion of Hong Kong independence on campus and stating that Hong Kong independence is counter to the Basic Law. Tom Grundy, "Heads of Top Universities Call Hong Kong Independence Unconstitutional, Condemn Free Speech 'Abuses,'" *Hong Kong Free Press*, September 16, 2017; Chinese University of Hong Kong, "Statement by Heads of Universities," September 15, 2017.

Economic Relations with Mainland China

For the 23rd consecutive year, in 2017 Hong Kong retained the rank of the world's freest economy on the strength of its rule of law, robust regulations, economic openness, freedom of assembly and expression, and sophisticated capital markets, according to an index prepared by the Heritage Foundation.* For decades, Hong Kong's economic dynamism has ensured its status as a global financial hub and the premier gateway to China.† In 2016, over 3,700 multinational companies had regional headquarters or regional offices in Hong Kong, of which 77 percent were responsible for business in mainland China.¹⁶⁵

According to UN data, in 2016, Hong Kong received over \$108 billion in foreign direct investment (FDI), making Hong Kong the second largest recipient of FDI in Asia after China (\$134 billion).¹⁶⁶ These inflows are rarely destined solely for Hong Kong, as many investors use Hong Kong as a transit point en route to China. As a result, Hong Kong has consistently been China's largest source of FDI, with cumulative inflows from Hong Kong amounting to \$914.8 billion at the end of 2016, or 51.7 percent of all inflows.¹⁶⁷ Mainland China, in turn, was the second largest source of FDI in Hong Kong (after the British Virgin Islands): at the end of 2015, stock of investment from China amounted to \$421.9 billion, or 26.5 percent of the total.‡¹⁶⁸ Hong Kong is also a key intermediary for China's trade with the rest of the world. According to Hong Kong government statistics, in 2016 59 percent of Hong Kong re-exports (i.e., goods imported and then exported again without alteration)§ were from China and 54 percent were shipped to mainland China.¹⁶⁹

By all accounts, Hong Kong's economy is highly integrated with mainland China across trade, investment, and finance channels. In fact, where Hong Kong previously served as a platform for foreign companies to enter China, now it is Chinese companies that increasingly use Hong Kong to go out. For example, there are over 1,000 Chinese companies listed on the Hong Kong Stock Exchange, and they represent nearly two-thirds of market value.¹⁷⁰ In June 2017, Hong Kong joined the Asian Infrastructure Investment Bank (AIIB), as a non-sovereign member, and subscribed to 7,651 shares of AIIB's capital worth \$765.1 million (Hong Kong dollars [HK\$] 6 billion).¹⁷¹ AIIB is closely linked with China's "One Belt, One Road" initiative,

*The Index of Economic Freedom considers 12 factors grouped into 4 categories of economic freedom: rule of law, government size, regulatory efficiency, and open markets. Heritage Foundation, "About the Index." <http://www.heritage.org/index/about>.

†Although Hong Kong is part of China, it has separate legal structures and is treated as "overseas" for the purposes of most regulations governing the ability of mainland Chinese to travel, transfer funds, and conduct other transactions.

‡Data on investment flows between Hong Kong and China are likely distorted due to a practice known as "roundtripping." Alicia Garcia-Herrero, Le Xia, and Carlos Casanova, "Chinese Outbound Foreign Direct Investment: How Much Goes Where after Round-Tripping and Offshoring?" *BBVA Research*, June 2015.

§Traders engaging in Hong Kong-China re-exports might be taking advantage of Hong Kong's separate economic system and treatment as "overseas" for the purposes of commerce with mainland China. For example, goods exported from Hong Kong tend to command higher prices, netting bigger profits. The corporate tax rate in Hong Kong is among the lowest in the world (and significantly lower than on the Mainland), which gives traders another reason to export their marked-up goods from Hong Kong while banking profits in Hong Kong. Traders might also be trying to get money out of China by overstating the value of imports from Hong Kong to circumvent Chinese capital controls.

which aims to connect China to Europe, Southeast Asia, Africa, and other parts of the world via a network of roads, railroads, shipping lanes, and telecommunication ties. Hong Kong leadership hopes that as a modern, efficient financial services hub—already a host to a significant share of China’s outward investment—Hong Kong will act as a conduit for Chinese One Belt, One Road projects.¹⁷²

Beyond financial connections, a number of infrastructure projects, including bridges and rail links, under the rubric of the greater Pearl River Delta integration, will bind Hong Kong more closely with Shenzhen and the greater Guangdong Province.¹⁷³ Physical integration with the Mainland may alleviate some of Hong Kong’s land shortages for business districts and housing, but may also lead to migration of high-value activities such as research and development to Shenzhen, China’s tech capital, where rents and wages are much lower.¹⁷⁴

Hong Kong remains China’s main platform for internationalizing the renminbi (RMB), and in 2016 processed 70 percent of all RMB payment activities worldwide according to data from SWIFT, a global payments processing network.¹⁷⁵ However, 20 years after the handover of Hong Kong to China, signs are starting to appear that Hong Kong’s economic importance to the Mainland is diminishing. In 1997, Hong Kong accounted for 18.4 percent of China’s economy; in 2016, that share was under 3 percent.¹⁷⁶ In fact, at \$319 billion, Hong Kong’s gross domestic product in 2016 was roughly on par with Shenzhen’s (\$284 billion).¹⁷⁷ At the same time, new initiatives further integrating Hong Kong with Chinese equity markets will allow China to broaden the appeal of its stocks and debt to international clients. These initiatives may also undermine Hong Kong’s role as a regional financial hub and a conduit between foreign investors and China.¹⁷⁸ In other words, if investors can access Chinese markets directly, rather than having to go through Hong Kong, Hong Kong’s role as an intermediary—and related business activities—will be diminished. The combined market capitalization of the Shanghai and Shenzhen stock markets is significantly bigger than the Hong Kong Stock Exchange’s, and their recent inclusion in major stock indices will only broaden their international appeal (albeit from a low base).^{*} (For additional information on China’s inclusion in the MSCI index, see Chapter 1, Section 1, “Year in Review: Economics and Trade.”)

Closer financial integration comes with a host of challenges. Mainland companies, which dominate Hong Kong’s markets, tend to have lower corporate governance standards, and analysts are starting to wonder whether Hong Kong’s regulators can adequately check bad behavior by companies that remain outside Hong Kong’s legal reach because their “main assets, audit working papers, and management typically reside on the Mainland and can only be accessed with cooperation from the Chinese authorities.”[†]¹⁷⁹ Since 2011, Hong Kong’s

^{*}The combined market capitalization of the Shanghai (\$4.5 trillion in June 2017) and Shenzhen (\$3.4 trillion) stock exchanges is third only to the New York Stock Exchange (\$20.7 trillion) and NASDAQ (\$8.8 trillion), while the Hong Kong Stock Exchange is seventh (\$3.7 trillion)—slightly ahead of Shenzhen. Hong Kong Securities and Futures Commission, *Market Capitalisation of the World’s Top Stock Exchanges (as of end June 2017)*, July 31, 2017; Gabriel Wildau, “Five Charts Explain How the Shenzhen Stock Exchange Works,” *Financial Times*, November 14, 2016.

[†]U.S. regulators face similar challenges when dealing with Chinese companies listed on U.S. stock exchanges. For an in-depth discussion, see Chapter 1, Section 2, “Chinese Investment in

Securities and Futures Commission halted trading of 15 companies due to accounting irregularities and other problems—13 of these companies were Chinese.¹⁸⁰ During the Commission's May 2017 trip to Hong Kong, interlocutors noted the risk for Hong Kong's continued importance as Asia's financial center if companies and individuals lose confidence in Hong Kong's rule of law and other freedoms as they are eroded by Beijing.¹⁸¹

To many foreign investors, the growing role of the state in Chinese companies is another cause for concern. The CCP, which has become much more visible in Hong Kong politics, is asserting its presence in Hong Kong's economy via state-owned enterprises (SOEs). According to research by the *Financial Times*, in 2017 more than 30 SOEs listed on the Hong Kong Stock Exchange (representing over \$1 trillion in market capitalization) "added lines to their central documents that place the [CCP], rather than the Chinese state, at the heart of each group," including describing the CCP as "providing direction [and] managing the overall situation."¹⁸² While all companies operating in China—including foreign companies—are required by law to establish a CCP cell inside the company organization, their role has largely been considered symbolic.¹⁸³ In the view of many investors, the new push for formal inclusion of CCP's primacy into SOEs' articles of association marks a turning point. David Webb, an independent investor and shareholder activist in Hong Kong, noted, "This move to embed the [CCP] into constitutional documents of the companies puts a lie to the government's claim they want market forces to play a greater role."¹⁸⁴

Shenzhen-Hong Kong Stock Connect

The Shenzhen-Hong Kong Stock Connect, launched in December 2016, is another in a long list of initiatives undertaken by Beijing to deepen economic integration with Hong Kong and enhance the promotion of the RMB's international use. Like the Shanghai-Hong Kong Stock Connect launched in 2014,* the Shenzhen Connect maintains daily quotas: Hong Kong investors are able to buy a net of \$1.9 billion (RMB 13 billion), while Shenzhen investors are limited to \$1.6 billion (RMB 10.5 billion).¹⁸⁵ Expectations were high for the Shenzhen Connect, in part because unlike Shanghai, which primarily caters to established businesses and SOEs, Shenzhen is dominated by companies in emerging sectors such as technology, media, and telecommunications.¹⁸⁶ However, in the eight months since the launch of the Shenzhen Connect, investors used only an average of 5.5 percent of the daily quota for northbound investment.¹⁸⁷ In part, this lack of demand is attributable to a 10 percent dip in valuations of Shenzhen companies since the Connect program began, but investors also remain concerned about volatility, moral hazard, heavy-handed government intervention in capital markets (witnessed in force during the Chinese stock market turmoil in 2015 and 2016),[†] and cap-

the United States."

*For more on the Shanghai-Hong Kong Stock Connect, see U.S.-China Economic and Security Review Commission, *2016 Annual Report to Congress*, November 2016, 421–422.

†For more on China's stock market collapse and government intervention, see Nargiza Salidjanova, "China's Stock Market Meltdown Shakes the World, Again," *U.S.-China Economic and Security Review Commission*, January 15, 2016; Nargiza Salidjanova, "China's Stock Market Col-

ital controls.¹⁸⁸ Mainland demand for Hong Kong stocks via the Shenzhen Connect has also been weak, with average daily quota use hovering around 4 percent since the launch.¹⁸⁹ This is likely due to Chinese regulatory tightening, ongoing since 2016, to prevent capital outflows and reduce leverage.¹⁹⁰

The June 2017 decision by MSCI, the provider of international stock benchmarks, to include Chinese stocks may boost investors' interest in the Shenzhen-Hong Kong Stock Connect. There is speculation China's securities regulator would expand or even abolish the RMB 13 billion foreign investor daily quota for the Shenzhen-Hong Kong Stock Connect and the Shanghai-Hong Kong Stock Connect following the MSCI inclusion.¹⁹¹

China-Hong Kong Bond Connect

Valued at around \$9.4 trillion, the Chinese bond market is the third largest in the world after the United States and Japan, but foreign investors own only about \$109 billion of domestic bonds (less than 2 percent).¹⁹² This is mainly the result of strict cross-border capital controls imposed by Chinese regulators. Yet, the Chinese government has been experimenting with loosening controls to encourage wider use of the RMB and provide domestic investors with outlets for borrowing and investment. The Bond Connect is the fourth program—after the Qualified Foreign Institutional Investor (QFII), the Renminbi Qualified Foreign Institutional Investor (RQFII), and the China Interbank Bond Market direct access scheme—to allow foreigners to buy Chinese debt.*

Unlike the stock connects, the Bond Connect, which launched on July 3, will initially only be opened for northbound trading, which means foreign investors will be able to purchase Chinese debt via Hong Kong while Chinese investors will not be able to access the Hong Kong bond market.¹⁹³ Such asymmetric opening suggests Chinese regulators remain concerned capital outflows may ramp up again if Chinese investors are given another outlet for accessing international markets (for more on Chinese capital outflows, see Chapter 1, Section 1, “Year in Review: Economics and Trade”).

Although the Bond Connect conducted about \$1 billion (RMB 7 billion) worth of business on July 3, its first day of trading, foreign interest has since cooled.¹⁹⁴ According to data from China Depository & Clearing Co., in August 2017, foreign investment into China's onshore bond market accounted for around 2 percent of total onshore bonds outstanding.¹⁹⁵ Analysts expect foreign investors will be just as cautious engaging with the new Bond Connect as they were with the stock connects. Despite minor opening of the stock and bond markets, China continues to maintain strict capital controls and arduous registration requirements, leaving investors worried about their ability to move the money out of China.¹⁹⁶

lapse and Government's Response,” *U.S.-China Economic and Security Review Commission*, July 13, 2015.

*The QFII launched in 2002, RQFII in 2011, and the China Interbank Bond Market direct access scheme in 2016. Karen Yeung, “High Hopes for China-Hong Kong Bond Connect,” *South China Morning Post*, May 24, 2017.

Summary of Mainland China's Recent Intrusions into Hong Kong's Autonomy

- *Political manipulation:* Heavy-handed involvement in the selection of Hong Kong's chief executive (March 2017); interference in the LegCo elections (September 2016); applying pressure on the prodemocracy camp through CCP United Front Work Department activities and other means; and the active promotion of Beijing's political agenda and legislative priorities in Hong Kong.
- *Legal tools:* The Ministry of Foreign Affairs spokesperson's statement on the eve of the 20th anniversary of the handover of Hong Kong to China questioning the legality of the 1984 Sino-British Joint Declaration (June 2017); disregard of cross-border law enforcement measures in the apparent abduction of Chinese billionaire Xiao Jianhua (January 2017) and the apparent abduction of a Mighty Current bookseller in Hong Kong (2015); and the Basic Law Committee of the National People's Congress' interpretation of the Basic Law on lawmakers' oaths of office (November 2016).
- *Economic tools:* Directing Chinese SOEs listed on the Hong Kong Stock Exchanges to include in their articles of association language highlighting the centrality of the CCP in corporate decision making.
- *Enabling self-censorship:* Harassing media and activists that promote democratic views or anti-Beijing messages; and the chilling effect posed by the potential for Beijing to use the same intrusions and coercive tools in the future that it has already used to degrade Hong Kong's autonomy.

Implications for the United States

U.S. policy toward Hong Kong, as outlined in the U.S.-Hong Kong Policy Act of 1992, underscores U.S. support for Hong Kong's human rights, democratization, and autonomy under the "one country, two systems" framework.¹⁹⁷ The preservation of Hong Kong's way of life and maintenance of its status as a global economic hub helps facilitate U.S. economic, diplomatic, and security interests. Nonetheless, recent declines in freedom of expression and the press in Hong Kong, in addition to further setbacks in rule of law and Hong Kong's "high degree of autonomy" due to the Mainland's increasing encroachment, are troubling developments that pose obstacles for carrying out U.S. policy objectives in the territory.

U.S. allies and partners in the Asia Pacific—particularly Taiwan—are also closely watching these developments with concern.¹⁹⁸ Beijing's preferred model for Taiwan is the same "one country, two systems" framework it has in place for Hong Kong; notably, the concept originated in relation to the Mainland's policy toward Taiwan in the 1980s.¹⁹⁹ Mainland China's recent actions contravening its commitments under the framework suggest it would be willing to engage in the same behavior under a similar arrangement with Taiwan. Further, the Taiwan government and its citizens have consistently

rejected the potential adoption of this model.²⁰⁰ (For more information on the implications of Beijing's heavy-handed approach toward Hong Kong for Taiwan, see Chapter 3, Section 3, "China and Taiwan.")

China's Ministry of Foreign Affairs spokesperson questioning the legality of the 1984 Sino-British Joint Declaration (although walked back by another Chinese government official) follows a pattern in recent years of the Mainland ignoring or disregarding international agreements and norms that it determines are not in line with its interests at a given time. For example, China in 2016 ignored The Hague's arbitral tribunal decision on disputed claims in the South China Sea which invalidated many of China's claims.²⁰¹ According to J. Michael Cole, a senior non-resident fellow with the China Policy Institute at the University of Nottingham, "[Beijing's statement on the Joint Declaration] should make governments worldwide wary of signing any agreements with China lest the latter decide at some point in the future that it is not bound by their stipulations."²⁰²

Negative trends in Hong Kong's political and legal spheres aside, the territory's autonomy from mainland China, its system of legal protections, and its transparency and openness make it an important destination and partner for U.S. trade and investment. In 2016, Hong Kong was the ninth-largest importer of U.S. goods (\$34.9 billion), and the United States retained its largest trade surplus globally with Hong Kong (\$27.5 billion).²⁰³ U.S. FDI in Hong Kong was seventh in the world at HK\$ 315 billion (\$40.4 billion), as of year-end 2015.²⁰⁴ Further demonstrating the United States' significant economic ties with Hong Kong, more than 1,400 U.S. companies operate in Hong Kong,²⁰⁵ including 286 regional headquarters and 480 regional offices as of 2016—the highest number of any other foreign presence, including mainland China.²⁰⁶ U.S. companies are strongly represented in financial services, insurance, and securities sectors.²⁰⁷ As these data show, U.S. businesses have a vested interest in Hong Kong staying an open trading center, with a robust rule of law and independent economic system.

As a supporter of free markets and reducing trade barriers, Hong Kong also is a valuable member and participant of a number of important international economic organizations, such as the Asia-Pacific Economic Cooperation, Financial Action Task Force, Financial Stability Board, and World Trade Organization.²⁰⁸

In 2017, the United States strengthened existing export control and counterproliferation cooperation with Hong Kong, introducing new documentation requirements on controlled exports and re-exports to the territory, as well as re-exports from Hong Kong.²⁰⁹ As a major transshipment hub for mainland China, the territory has been a particular focus in ensuring robust U.S. protections against unauthorized shipments to the Mainland.²¹⁰ Given the U.S. treatment of Hong Kong as a separate customs territory, it has unique export control agreements with Hong Kong that are different from those with mainland China. The new U.S. rule covers items subject to the Export Administration Regulations and controlled on the Commerce Control List for chemical and biological weapons, missile technology, nuclear nonproliferation, and national security. The rule is designed to reinforce regulations already in place by requiring

those wishing to export or re-export these items to first receive a Hong Kong license (if required), ensuring exports to Hong Kong abide by international counterproliferation regimes.²¹¹

Renewed Push for Hong Kong to Join Visa Waiver Program

As the number of Hong Kong citizens traveling to the United States continues to rise—over 100,000 visitors are projected for 2017—U.S. officials and the business community have advocated adding Hong Kong to the U.S. Visa Waiver Program. Such a move would allow Hong Kong citizens to travel to the United States for stays of 90 days or less without obtaining a visa,²¹² and thus lessen the burden of processing visa applications.²¹³ The U.S. Consulate General in Hong Kong and Macau and the American Chamber of Commerce in Hong Kong have voiced their support for the measure. Benefits of this new policy would include increased tourism and business investment in the United States, in addition to signaling support for Hong Kong’s rule of law and governance, according to U.S. Consul General Kurt Tong.²¹⁴ In 2013, the Senate passed a bill that included an amendment to allow Hong Kong in the program, but the House of Representatives did not take up the bill.²¹⁵

In June 2017, the U.S. Department of State released a report on recent developments in Hong Kong and the U.S.-Hong Kong relationship, which assesses whether Hong Kong has maintained a “sufficient degree of autonomy” under the “one country, two systems” policy. The State Department report notes that Hong Kong “generally” maintains a high degree of autonomy, “more than sufficient to justify continued special treatment by the United States for bilateral agreements and programs.”²¹⁶ This “special treatment” afforded to Hong Kong is codified under the U.S.-Hong Kong Policy Act of 1992, which directs the United States to treat Hong Kong as a separate customs territory and as a World Trade Organization member.²¹⁷ The United States has an interest in upholding its longstanding policy toward Hong Kong and building on the strength of the existing relationship. Mainland China’s adherence to its commitments regarding Hong Kong is necessary to ensure continued positive ties between the United States and the territory.

Concerns also persist in Hong Kong among prodemocracy advocates and among international observers that the territory is sliding away from “one country, two systems” and moving ever closer to the Mainland; in the process, they argue, Hong Kong is losing the unique characteristics and legal protections that make the territory a key U.S. partner in the Asia Pacific.²¹⁸ As Beijing moves to tighten its control over Hong Kong, the territory also faces economic pressure from mainland China. The economic slowdown in the Mainland has negatively impacted Hong Kong’s growth prospects, while the territory faces increased competition from mainland cities, which receive considerable investment and promotion.²¹⁹

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