Freedom House

FREEDOM IN THE WORLD 2017

Hong Kong*

PARTLY FREE

61

/100

Political Rights	16 /40
Civil Liberties	45 /60

Global freedom statuses are calculated on a weighted scale. See the methodology.

** Indicates a territory as opposed to an independent country.*

Trend Arrow

Hong Kong received a downward trend arrow due to Beijing's encroachment on freedoms in the territory, reflected in the detention by mainland authorities of five Hong Kong booksellers, shrinking journalistic and academic independence, and the central government's unilateral reinterpretation of the Basic Law in an apparent bid to exclude pro-independence and prodemocracy lawmakers from the Legislative Council.

Overview

The people of Hong Kong, a special administrative region of China, have traditionally enjoyed substantial civil liberties and the rule of law under their local constitution, the Basic Law. However, the chief executive and half of the Legislative Council are chosen through indirect electoral systems that favor pro-Beijing figures, and the territory's freedoms and autonomy have come under threat in recent years due to growing political and economic pressure from the mainland.

Key Developments in 2016

- Ahead of Legislative Council elections in September, Hong Kong authorities refused to register a new pro-independence political party and invalidated the nominations of six "localist" candidates in connection with their views on self-determination for the territory.
- In November, the National People's Congress in Beijing issued an unsolicited interpretation of Hong Kong's Basic Law that requires oaths of office to be given "sincerely and solemnly," effectively barring two newly elected localists from taking their seats in the Legislative Council and prompting legal challenges against the status of four other lawmakers.
- Five Hong Kong booksellers, known for their publication and distribution of books that were critical of the Chinese leadership, resurfaced in early 2016 after

their disappearance in late 2015, confirming that they had been in the custody of mainland police and issuing statements that raised suspicions of coercion.

Executive Summary

Hong Kong voters turned out in large numbers for the September 2016 Legislative Council (Legco) elections, which featured the emergence of a localist movement alongside existing pro-Beijing and prodemocracy camps. The new movement, which grew out of the 2014 Umbrella Movement protests, emphasizes greater autonomy or independence from mainland control, as opposed to the prodemocracy camp's push for direct elections as promised in Hong Kong's Basic Law under the current "one country, two systems" framework for Chinese rule. The localists faced major obstacles from Hong Kong authorities, including refusal to register a newly formed localist party and the invalidation of the nominations of some localist candidates due to their political views. Nonetheless, other localist candidates won 6 of the 70 Legco seats. Pro-Beijing parties won 40 seats, prodemocracy parties won 23, and the remaining seat went to an independent.

After some winning localist and prodemocracy candidates altered their oaths of office as a form of protest, the National People's Congress in Beijing issued an unusual interpretation of the Basic Law in November, declaring that such oaths must be given "sincerely and solemnly" to be valid. Unlike previous interpretations, it was issued while local courts were still considering the case at hand, and without a request from the Hong Kong government. Two localists were consequently barred from taking their seats, and Hong Kong authorities challenged the validity of the oaths of four other lawmakers who had already been seated. While the former case was awaiting a final appeal at year's end, the courts had yet to rule on the latter.

Separately, five Hong Kong booksellers who disappeared in late 2015 resurfaced in early 2016, officially confirming that they were in the custody of mainland authorities. Their company had been known for publishing and distributing books that were critical of China's leaders. Each made public statements through state and Hong Kong media in which they "confessed" to wrongdoing, though observers cast doubt on the authenticity of the statements given China's record of obtaining forced confessions.

One of the detainees, after returning to Hong Kong in June, spoke out against the circumstances of his detention and said his confession had been forced and scripted. The case raised concerns about civil liberties and the rule of law in Hong Kong, as it suggested that residents were vulnerable to punishment in the mainland's politically controlled justice system for actions taken at home.

Hong Kong press freedom advocates continued to criticize the creeping growth of pro-Beijing pressure on journalistic expression, accusing media owners of encouraging self-censorship to favor the central government's interests. Meanwhile, students and scholars staged demonstrations against increasing pro-Beijing influence on academic administration.

Political Rights

A. Electoral Process

Hong Kong's 1997 Basic Law calls for the election of a chief executive and a unicameral Legislative Council. Under 2010 electoral reforms, the chief executive, who serves a five-year term, is chosen by a 1,200-member election committee. Some 200,000 "functional constituency" voters—representatives of elite business and social sectors, many with close Beijing ties—elect 900 of the committee's members, and the remaining 300 consist of Legco members, Hong Kong delegates to China's National People's Congress (NPC), religious representatives, and Hong Kong members of the Chinese People's Political Consultative Conference (CPPCC), an advisory body to the Chinese government.

In 2012, the election committee chose CPPCC member Leung Chun-ying as the chief executive. He won 689 of the 1,050 valid votes cast following an unusually competitive race against two other candidates—Henry Tang, a high-ranking Hong Kong civil servant who took 285 votes, and Democratic Party leader Albert Ho, who secured 76. China's Liaison Office in Hong Kong reportedly lobbied election committee members to vote for Leung and pressured media outlets to remove critical coverage of him ahead of the balloting.

Of the 70 Legco seats, 30 are elected by functional constituency voters, 35 are chosen through direct elections in five geographical constituencies, and the remaining 5 are directly elected after nominations by Hong Kong's 18 district councils from among their own members. All Legco members serve four-year terms.

In the months before the September 2016 Legco elections, the Electoral Affairs Commission (EAC) announced a measure requiring all candidates to sign a form confirming their belief that Hong Kong is unquestionably a part of China, based on certain Basic Law provisions. The move was seen as an attempt to exclude localist candidates. The EAC ultimately invalidated the nominations of six localist candidates, either for refusal to sign the form or, in the case of some who ultimately did sign, because the EAC was nonetheless unconvinced that they were sincere in changing their previous views on independence. A number of other candidates were approved despite failing to sign the declaration. In October, one of the six disqualified candidates filed a lawsuit challenging the constitutionality of the EAC's actions. A hearing was expected in 2017.

Despite the initial obstacles, localist candidates won six seats in the September elections, which featured turnout of 58 percent. Moreover, localist candidates collectively garnered 19 percent of the votes cast in the five geographical constituencies. The results confirmed their status as a small but growing political force, complicating the traditional division between pro-Beijing parties, which won 40 seats, and prodemocracy parties, which won 23 seats. An independent took the remaining seat.

In October, after a number of newly elected localist and prodemocracy Legco members used their swearing-in ceremonies to make political statements, in some cases altering the wording of their oaths, the oaths of two localists—Sixtus Baggio Leung Chung-hang and Yau Wai-ching—were rejected. Amid calls for their disqualification, the Legco was eventually adjourned, blocking the two from retaking their oaths. In November, the NPC Standing Committee issued an official interpretation of Basic Law provisions concerning oaths of office, stating that all oaths must be taken "sincerely and solemnly." Subsequently, a court of first instance disqualified Leung and Yau, and the ruling was upheld by the High Court. In

December, the two petitioned the Court of Final Appeal. Meanwhile, based on the NPC interpretation, Hong Kong authorities filed cases aimed at disqualifying four prodemocracy Legco members who had already been sworn in and seated.

B. Political Pluralism and Participation

Hong Kong residents' political choices are limited by the semidemocratic electoral system, which ensures the dominance of pro-Beijing interests. While the Basic Law states that universal suffrage is the "ultimate aim," only incremental changes have been permitted to date.

Some 18 political parties are currently represented in the Legco. The largest pro-Beijing party is the Democratic Alliance for the Betterment and Progress of Hong Kong. The main parties in the prodemocracy camp are the Civic Party and the Democratic Party, and key localist groupings include Youngspiration and Civic Passion. The Chinese Communist Party (CCP) is not formally registered in Hong Kong but exercises considerable influence. In March 2016, the Hong Kong Companies Registry refused to register the new Hong Kong National Party on grounds that its proindependence platform constituted illegal activity.

While there are no legal restrictions on ethnic minorities participating in politics or running for office, the Legco had no ethnic minority members as of 2016.

C. Functioning of Government

Directly elected officials have little ability to set and implement government policies under the territory's political system, and mainland authorities are highly influential. The Basic Law restricts the Legco's lawmaking powers, prohibiting legislators from introducing bills that would affect Hong Kong's public spending, governmental operations, or political structure. Most policymaking authority rests with officials who are appointed or indirectly elected in ways that protect Beijing's interests.

Hong Kong is generally regarded as having low corruption rates, and high-ranking officials have been successfully prosecuted for graft-related offenses.

Civil Liberties

D. Freedom of Expression and Belief

The Basic Law upholds freedoms of speech, press, and publication. Residents have access to a variety of print and broadcast news sources. Foreign media generally operate without interference. The mainland's internet censorship regime does not apply in Hong Kong, and residents enjoy unrestricted access to a wide range of sites. However, in recent years the Hong Kong and Chinese governments, as well as businesses with close ties to Beijing, have increased political and economic pressure on media independence.

In December 2015, the mainland e-commerce giant Alibaba acquired the *South China Morning Post*, Hong Kong's leading English-language newspaper, adding to fears that its editorial independence was eroding. The new ownership took effect in April 2016.

In another sign of China's influence, a number of local news outlets appeared to participate in well-established Chinese government tactics of publicly airing dubious "confessions" of guilt without trial. In July and August, for example, the *South China Morning Post* and *Oriental Daily* newspapers respectively published "confessions" by legal assistant Zhao Wei and rights defense lawyer Wang Yu, both of whom had been detained in a massive 2015 crackdown against mainland lawyers and activists. Observers questioned the authenticity of the "confessions," and neither newspaper explained how the interviews were arranged, prompting criticism that they had compromised their independence by serving as Chinese government mouthpieces.

The disappearance of the five Hong Kong booksellers in late 2015, and their reemergence in Chinese custody in early 2016, had a chilling effect on expression in

the territory, with several vendors declining to distribute books that were critical of Chinese authorities, even though such activity is legal in Hong Kong.

Religious freedom is generally respected in Hong Kong. Adherents of the Falun Gong spiritual movement, which is persecuted in mainland China, are free to practice in public. However, in recent years they have been confronted and harassed by members of the Hong Kong Youth Care Association (HKYCA), which has ties to the CCP.

University professors can generally write and lecture freely, and political debate on campuses is lively. However, a series of incidents in recent years have stoked concerns that Beijing is putting greater pressure on Hong Kong's academic sphere. In January 2016, student demonstrations and boycotts erupted at the University of Hong Kong to protest the chief executive's appointment of a pro-Beijing official to head the university's governing council. The students' concerns were echoed during the year by a number of public figures and former officials who warned of growing interference by the Hong Kong government and mainland authorities with Hong Kong's colleges and universities.

Private discussion is open and free in Hong Kong, though mainland security agencies are suspected of monitoring the communications of prodemocracy activists.

E. Associational and Organizational Rights

The Basic Law guarantees freedoms of assembly and association. The Public Order Ordinance requires organizers to give police seven days' notice before protests and to obtain official assent, which is rarely denied. However, prosecutions against leading participants in the Umbrella Movement have raised concerns about shrinking space for public assembly and association in Hong Kong. Drawing more than 100,000 people at its peak, the 2014 movement featured long-term encampments that paralyzed key commercial and government districts. Police made only sporadic and partial attempts to break up the camps. Nevertheless, their increased use of baton

charges, pepper spray, and arrests to clear the last groups of protesters that year drew fresh criticism. The encampments also faced assaults by counterdemonstrators, many of whom were later found to have links with criminal gangs.

Most of the hundreds of people arrested during the Umbrella Movement were quickly released, although about 160 were later charged. In July 2016, student leaders Joshua Wong and Alex Chow were found guilty of participating in an "unlawful assembly," while colleague Nathan Law was found guilty of "inciting others to take part in an unlawful assembly" under the Public Order Ordinance. However, their sentences were light, ranging from community service to a suspended jail term of three weeks.

Prior to and during a May 2016 visit by Zhang Dejiang, chairman of the NPC Standing Committee, authorities took steps to make it difficult for demonstrators to confront the official. Protesters could congregate only in specified areas a long distance away from meeting venues, and prodemocracy protesters were arrested for trying to hang banners demanding universal suffrage.

Also in 2016, annual mass demonstrations on June 4 and July 1, marking the 1989 Tiananmen Square crackdown and the 1997 handover of Hong Kong from Britain to China, drew tens of thousands of people without major incident.

Hong Kong hosts a vibrant and largely unfettered nongovernmental organization (NGO) sector, including a number of groups that focus on human rights in mainland China. Trade unions are independent, but collective-bargaining rights are not recognized, and protections against antiunion discrimination are weak.

F. Rule of Law

The judiciary is largely independent, and the trial process is generally fair. However, the NPC reserves the right to make final interpretations of the Basic Law, effectively limiting the power of Hong Kong's Court of Final Appeal. The NPC's November 2016 interpretation regarding oaths of office was unusual in a number of respects, particularly the fact that it was issued without a request from the Hong Kong government and before the local courts had ruled on the matter in question. It was

therefore seen as a blow to the independence of the territory's legal system. Critics also noted that the interpretation introduced subjective concepts like "sincerity" and "solemnity" that could lead to politicized enforcement.

Police are forbidden by law to employ torture, disappearance, arbitrary arrest and detention, and other forms of abuse. They generally respect this ban in practice, and complaints of abuse are investigated. However, the case of the five booksellers cast doubt on Hong Kong's capacity to protect its residents from similar abuses by mainland authorities.

Before their disappearances in late 2015, one of the five men was last seen in Thailand, three were last seen in mainland China, and the fifth was apparently abducted directly from Hong Kong by Chinese agents. In January 2016, letters purportedly from one of the men stated that he was willingly cooperating with authorities in China, and that there was no need for concern. Chinese authorities confirmed his detention later that month. Also in January, a second bookseller was paraded on China's state television, where he "confessed" to his involvement in an unrelated fatal car accident years earlier. In February, the remaining three men appeared on Hong Kong's Phoenix TV, admitting to distributing unlicensed books on the mainland and confirming that they too were detained by Chinese authorities.

Eventually, four of the five booksellers were allowed to return to Hong Kong, but three stayed only briefly, and one—Gui Minhai, a Swedish citizen—remained detained on the mainland under suspicion of unnamed "criminal activities." Gui's family and the Swedish government were not told of his whereabouts or any charges against him, rendering him forcibly disappeared under international law. One of the returnees, Lam Wing-kee, held a news conference in June to describe his detention by Chinese authorities on the mainland. He said they interrogated him about his company's activities, including information about both authors and consumers of certain politically sensitive books, and forced him to read a scripted public "confession." He refused to return to mainland China despite orders to do so from Chinese police.

Hong Kong authorities insisted that they were not informed by mainland authorities about the circumstances of the disappearances, prompting concern about the system of reciprocal notification of cross-border detentions that is supposed to be in

place between Hong Kong and the mainland. Officials emphasized that it is not legally possible to hand a Hong Kong resident over to Chinese authorities without an extradition agreement. However, police dropped an investigation into the abduction of Lee Bo, the bookseller who was allegedly seized in Hong Kong and smuggled across the border to the mainland, at the request of Lee and his family.

Citizens are generally treated equally under the law, though South Asian minorities face language barriers and de facto discrimination in education and employment. Antidiscrimination laws do not specifically protect LGBT (lesbian, gay, bisexual, and transgender) people.

More than 11,000 refugees were thought to be in Hong Kong as of June 2016, with most coming from South or Southeast Asia. While the government does not accept refugees for settlement, it does offer protection from refoulement, and those deemed eligible can be referred to UN officials for third-country resettlement. However, only 52 of more than 8,000 claims have been approved by authorities since 2009, raising serious doubts about the fairness of the process.

G. Personal Autonomy and Individual Rights

Hong Kong residents generally enjoy freedom of movement, though authorities periodically deny entry to visiting political activists and Falun Gong practitioners, raising suspicions of a Beijing-imposed blacklist. While property rights are largely respected, collusion among powerful businessmen with political connections is perceived as an impediment to fair economic competition.

Women in Hong Kong are protected by law from discrimination and abuse. However, they continue to face de facto inequality in employment opportunities, salary, inheritance, and welfare. Only 11 of the 70 Legco members are women, and there are no women on the Court of Final Appeal.

Hong Kong remains a destination and transit point for human trafficking linked to sexual exploitation and forced labor. The territory's roughly 330,000 foreign

household workers are vulnerable to abuse. They are often required by recruitment agencies to pay exorbitant fees, and since they may face deportation if dismissed, many are reluctant to bring complaints against employers. There have been reports of abuses against sex workers by law enforcement officers, including entrapment and other misuses of police powers. There are also reports of discrimination by police and correctional officers against sex workers who identify as transgender, and an overall unwillingness of sex workers to report assaults out of fear of prosecution for solicitation.

On Hong Kong

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Country Facts

Global Freedom Score

55/100 **Partly Free**

Other Years

2020

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