



**THE SIX-MONTHLY REPORT ON HONG KONG  
1 JULY TO 31 DECEMBER 2016**

Deposited in Parliament by the Secretary of State for Foreign and  
Commonwealth Affairs

**24 FEBRUARY 2017**

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## FOREWORD

This is the 40th in a series of reports to Parliament on the implementation of the 1984 Sino–British Joint Declaration on the Question of Hong Kong. It covers the period from 1 July to 31 December 2016.

This year, 2017, is the 20th anniversary year of Hong Kong’s return to China under the terms of the Joint Declaration and under the principle of ‘One Country, Two Systems’. As successive foreign secretaries have noted in previous reports, this is an arrangement that has served Hong Kong well. It has allowed Hong Kong’s distinct way of life to continue, and provided a firm foundation for a flourishing relationship between the UK and the Special Administrative Region in a whole range of areas, from trade and investment to education and science. In particular, Hong Kong’s reputation for strong legal institutions and an independent judiciary remains deservedly strong. The rule of law is a fundamental component of Hong Kong’s prosperity and stability and remains a reason why so many UK companies choose to do business in Hong Kong, and to use the city as a gateway to the mainland Chinese and other Asian markets.

The period under review in this report nevertheless saw a number of developments which caused concern in Hong Kong and internationally with respect to the implementation of ‘One Country, Two Systems’. These include the events surrounding the Legislative Council elections and the subsequent oath-taking by elected legislators; and continuing concerns about the exercise of rights and freedoms guaranteed by the Joint Declaration, including freedom of expression and the freedom of the press.

In November, the Standing Committee of the National People’s Congress’s interpretation of Article 104 of the Basic Law, relating to oath-taking for public servants, was the subject of considerable debate in Hong Kong. The UK Government specifically raised its concerns about the interpretation, both publicly and privately. We did not question the right of the Standing Committee to issue this interpretation, but were concerned about the timing of its release before the conclusion of related judicial proceedings in the Hong Kong courts.

There was also continued debate about Hong Kong's constitutional future, particularly in light of the election of localist politicians to the Legislative Council, and discussion in the media about advocates of independence. The UK Government's position on this issue is clear. We do not see independence as an option for Hong Kong. It is our clear view that the 'One Country, Two Systems' arrangements provided for by the Joint Declaration and the Basic Law provide the best system for Hong Kong's long-term future. During my annual foreign policy talks with Chinese State Councillor Yang Jiechi we discussed the importance of maintaining confidence in 'One Country, Two Systems'. We welcome the statements by the Chinese and Hong Kong Special Administrative Region Governments during the reporting period expressing commitment to the faithful implementation of 'One Country, Two Systems' and were encouraged by indications from the Hong Kong authorities that this arrangement would not come to an end in 2047.

This reporting period also saw the announcement in December by Chief Executive CY Leung that he would not stand for re-election. The UK has worked closely with Chief Executive CY Leung and his administration during his time in office and looks forward to continuing this relationship with his successor, who will be selected in March this year. We hope that, following that selection process, discussion will resume between all parties in Hong Kong about progress towards a more democratic and accountable system of government, as provided for in the Basic Law. This would support Hong Kong's continued prosperity and help protect the Special Administrative Region's rights and freedoms.

Hong Kong is one of the world's great cities, and one that remains of great importance to the UK. I am in no doubt that our deep and enduring relationship will continue to grow. I am pleased that my ministerial colleague Alok Sharma MP was the latest in a series of UK Ministers to visit Hong Kong during the reporting period, where he had a series of substantial exchanges on deepening the political, economic, trade and investment relationship between the UK and Hong Kong. As the UK Government seeks to promote a more global free trade agenda, Hong Kong – as a champion of free trade – will be an even more important partner for us.

**Rt. Hon. Boris Johnson MP**  
**Foreign Secretary**

## **INTRODUCTION**

This series of six-monthly reports reflects the UK Government's continuing interest in developments in Hong Kong and our commitment to the faithful implementation of the 1984 Sino–British Joint Declaration on Hong Kong. In this declaration, the Chinese Government undertook that the Hong Kong Special Administrative Region (SAR) would enjoy a high degree of autonomy, except in foreign and defence affairs, and that the continuation of Hong Kong's social and economic systems, lifestyles, rights and freedoms would be guaranteed.

The current reporting period was dominated by elections to the Legislative Council (LegCo), an increasing focus on the issue of 'Hong Kong independence' as well as the interpretation of the Basic Law by the Standing Committee of the National People's Congress (NPCSC).

## **LEGISLATIVE COUNCIL ELECTIONS**

Some 2.2 million votes were cast in the sixth LegCo elections on 4 September 2016. The 58 per cent turnout surpassed 2004's previous high of 56 per cent. The elections also saw the highest number of candidates standing for election in Hong Kong history, with 234 candidates contesting the 40 directly elected seats.

Our last six-monthly report noted the emergence of new pro-democracy political parties and groups, often described as 'localists'. The 'localist' banner encompasses a wide array of groups with many diverse objectives, but with a broad goal of preserving Hong Kong's autonomy and distinct local culture and way of life. Many localists also advocate self-determination for Hong Kong.

The new political landscape was reflected in the election results. Pro-establishment parties retained an overall majority with 40 seats, traditional pro-democracy parties won 23 seats and localists won six seats.

## **Confirmation Form**

The run-up to the elections was marked by controversy, with six prospective candidates barred from standing because of questions concerning their commitment to uphold the Basic Law.

On 14 July, the Electoral Affairs Commission (EAC) announced the introduction of a 'Confirmation Form' in which candidates would need to promise to uphold the Basic Law. An EAC statement highlighted the duty of the EAC to point out to candidates relevant Articles in the Basic Law.

Following weeks of media scrutiny, the EAC confirmed on 2 August that six out of the total 154 confirmation forms were invalid. The most high-profile candidate barred from running was Edward Leung of localist group Hong Kong Indigenous who finished third in February 2016's New Territories East by-election with approximately 66,000 votes. Though Leung had signed the Confirmation Form, the returning officer said: "Mr Leung has not provided sufficient reasons or evidence to prove that the media reports on his advocacy for 'Hong Kong Independence' were not true."

Critics of the Confirmation Form argued that it amounted to political censorship, and required returning officers to make subjective judgements that fell outside their responsibility. In late July, Leung and two other prospective candidates – Avery Ng and Derek Chan – unsuccessfully applied for an urgent judicial review of the EAC's nomination form, arguing that the arrangement was destroying public confidence in the electoral system.

Speaking to reporters on 3 August, Justice Secretary Rimsky Yuen said that the returning officer "had clearly explained her views" and that the rationale "had legal basis". A group of 30 lawyers expressed their deep regret at the decision, noting in a statement that the decision was "not only unlawful but amounts to political censorship and screening by the Returning Officer without any legal basis".

In early October, Edward Leung submitted an Electoral Petition to challenge the EAC decision to bar his candidacy, and questioning whether the candidates for the

constituency in which he would have stood (New Territories East) were duly elected. By the end of the reporting period, no date had been set for the hearing.

### **Allegations of manipulation and intimidation**

As well as the controversy surrounding the barred candidates, there were also allegations of electoral manipulation and intimidation. The EAC received more than 2,000 complaints.

Allegations included unidentified volunteers taking elderly people from care homes to polling stations and instructing them how to vote; voters' addresses being changed without their knowledge; and ballot papers being marked in advance. At least two mainland Chinese state-owned enterprises reportedly issued staff with instructions on how to vote.

In late August, Liberal Party candidate Ken Chow Wing-kan announced that he would suspend his campaign due to threats made to people around him. Chow said it would be pointless to provide information to law enforcement agencies: "How can they investigate when the power is not from Hong Kong? It is out of the range of their law enforcement."

On 8 September, newly elected legislator Eddie Chu Hoi-dick reported death threats against him and his family to the Hong Kong police. In the days following the elections, Chu told reporters that the "violent threats have intensified", leading to him and his family moving out of their home, and being given police protection. In a statement sent to the Police Commissioner Stephen Lo, the Secretary for Security TK Lai and the Chief Executive CY Leung, Chu said: "Politically motivated threats of violence against elected representatives of the people are a direct attack on rule of law and democracy" and "The Hong Kong police is duty bound to uphold the rule of law and our constitutional rights."

On 21 September, Hong Kong police arrested six men in relation to the threats made to Chu and held them on suspicion of criminal intimidation. The six were eventually released on police bail.

## **Sixth Legislative Council**

The first meeting of the Sixth Legislative Council took place on 12 October, with the swearing-in of legislators and the election of the new President.

### **Swearing-in of legislators**

Section 19 of the Oaths and Declarations Ordinance requires members of the Legislative Council to take the oath as soon as possible after the commencement of their term of office.

During the swearing-in ceremony, a number of pan-democrats and localist legislators altered the words of the oath, added statements before or after their oaths or displayed items in support of democracy or Hong Kong independence. As a result, the LegCo Secretary-General invalidated the oaths of four legislators-elect: Yau Wai-ching, Sixtus 'Baggio' Leung, Lau Siu-lai and Edward Yiu.

In a written statement on 18 October, the day before the second Council meeting, LegCo President Andrew Leung published his ruling on the validity of the oaths of the six legislators-elect, noting that, in addition to the four named above, some had questioned the validity of the oaths of Nathan Law and Wong Ting-kwong. The President said that Nathan Law's oath was valid, while those of Wong Ting-kwong, Yau Wai-ching, Sixtus Leung, Lau Siu-lai and Edward Yiu were all invalid. He went on to note that he would be prepared to allow the five to retake their oaths at the LegCo meeting on 19 October.

### **Judicial reviews**

Late on 18 October, the Chief Executive CY Leung and Justice Secretary Rimsky Yuen sought an urgent interim injunction in the High Court to prevent Yau Wai-ching and Sixtus Leung retaking their oaths on 19 October, as well as leave for application for a judicial review. The unprecedented legal action named Yau and Leung as well as newly elected LegCo President Andrew Leung as co-defendants.

Justice Secretary Rimsky Yuen said on 19 October that the Hong Kong SAR Government's legal action would not affect the relationship between the administration and the legislature. He said that the oath-taking was a matter of constitutional responsibility and that the Legislative Council must abide by the law, adding that the Hong Kong SAR Government's legal action was designed to implement the Basic Law.

Justice Thomas Au rejected the request for an injunction, but agreed to a judicial review, with a court date set for 3 November, leaving all five legislators-elect free to retake their oaths as planned on 19 October.

### **Legislative Council adjournments**

On 19 October, following the swearing-in of two of the legislators, Wong and Yiu, the Council meeting was adjourned after pro-establishment legislators walked out. This rendered the Council inquorate before Lau, Yau or Leung had retaken their oaths. LegCo President Andrew Leung described the decision to walk out as "unfortunate" and said that he had no choice but to adjourn the meeting. Leung said he would delay the swearing-in of the three legislators-elect pending the outcome of legal proceedings after threats by pro-establishment legislators that they would continue to block any attempt to allow Yau and Sixtus Leung to retake their oaths.

### **Court hearing and NPCSC interpretation of the Basic Law**

Article 158 of the Basic Law provides that the power of interpretation of the Basic Law is vested in the NPCSC. In late October, speculation began to mount that the NPCSC would use this power to intervene in the judicial proceedings concerning Leung and Yau's eligibility.

On 1 November, Justice Secretary Rimsky Yuen said he was "confident the issue can be handled fairly, justly and professionally by the Hong Kong Courts".

On 2 November, the day before the judicial review was due to begin, Central Government Liaison Office (CGLO) Director Zhang Xiaoming said: "The terrible

behaviour during oath-taking is not something that is a trivial farce, but seriously breached the ‘One Country, Two Systems’ bottom line”, and, “any speech and activities advocating Hong Kong independence should be punished according to the law, and there should be no reason to tolerate or indulge it.”

On 4 November, Basic Law Committee member Maria Tam confirmed that the NPCSC would interpret Basic Law Article 104, eliciting reactions from across the political spectrum. The Chair of Hong Kong’s largest political party, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), Starry Lee, said the interpretation would “eradicate the advocacy of Hong Kong independence in line with the Basic Law”. In an open letter, 26 pan-democrat and localist legislators said, “the NPCSC’s interpretation will gravely destroy ‘One Country, Two Systems’, and the foundations of the rule of law” and that “the controversy sparked by the two lawmakers’ actions during the oath-taking ceremony is an internal affair of Hong Kong and should be addressed by the Hong Kong courts according to the Basic Law and Hong Kong laws”.

In anticipation of the interpretation, over 10,000 protestors marched to the CGLO on 6 November. Main roads were blocked as thousands refused to leave despite repeated police warnings and widespread use of pepper spray in scenes reminiscent of the 2014 Occupy Central protests. Protestors finally withdrew in the early hours of 7 November after a number of pan-democratic and localist parties called on supporters to leave to avoid the risk of injury.

On 7 November, the NPCSC published its interpretation of Basic Law Article 104, the fifth since the handover. In summary, the interpretation said:

- The requirement in Article 104 for legislators to “swear to uphold the Basic Law of the Hong Kong SAR of the PRC and swear allegiance to the Hong Kong SAR of the People’s Republic of China” establishes a statutory requirement for legislators to take the oath and forms the “statutory content” of the LegCo oath.

- For an oath to be considered valid, the oath-taker should accurately, completely, sincerely and solemnly read it. If the oath-taker has not taken an oath confirmed to be valid by the oath administrator, or if he or she declines to swear in, he or she cannot assume office, and cannot exercise the duties and enjoy the privileges of public office. Retaking the oath is forbidden.
- The oath is legally binding; oath-takers must sincerely believe in and strictly comply with the statutory oath. Oath-takers who take false oaths or engage in activities in violation of the oath after taking the oath will assume legal responsibility in accordance with laws.

**Foreign and Commonwealth Office (FCO) statement of 7 November 2016 following the NPCSC interpretation**

**“We are concerned by recent developments in the Legislative Council and, while we recognise the National People’s Congress Standing Committee’s authority to interpret the Basic Law, by its decision to issue an opinion at this time.**

**“We urge the Chinese and Hong Kong SAR Governments, and all elected politicians in Hong Kong, to refrain from any actions that fuel concerns or undermine confidence in the ‘One Country, Two Systems’ principle. Hong Kong’s prosperity and stability depends on its successful implementation, as provided for by the Joint Declaration and Basic Law.”**

Addressing reporters in Beijing, Basic Law Committee chairman Li Fei said the Central People’s Government (CPG) was determined to fully confront pro-independence forces who had “seriously violated the principle of ‘One Country, Two Systems’, the Basic Law, and Hong Kong’s local laws”. At stake was “the country’s territorial integrity, national security and competitiveness”; the interpretation would “help to defend national unity and sovereignty”. Chief Executive CY Leung told the media that the Hong Kong SAR Government would fully implement the Standing Committee of the NPC’s interpretation, including through holding LegCo by-elections

if necessary. He said that the interpretation had clarified the people's understanding of the Basic Law and related Hong Kong laws.

On 9 November, CGLO legal chief Wang Zhenmin said the NPCSC interpretation of the Basic Law Article 104 was intended to clarify the unclear provision. He said that the CPG used all means to combat Hong Kong independence, and hoped that the Hong Kong SAR Government would co-ordinate the efforts.

In Hong Kong, the interpretation provoked a strong response. The Hong Kong Bar Association expressed deep regret, noting that: "the timing of the making of the Interpretation at this highly sensitive moment by the NPCSC is 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."

Approximately 2,000 lawyers joined a silent protest march on 8 November over the interpretation. One of the march leaders, Martin Lee, described the interpretation as "like a tank crashing into Hong Kong's legal system". A number of pro-democracy parties argued that the interpretation in effect changed local laws, in contravention of the SAR's high degree of autonomy.

### **Outcome of judicial proceedings**

On 15 November, the High Court ruled that Yau and Leung had "declined" to take their oaths and were therefore disqualified from assuming office, since the President of the LegCo had no power to allow a second attempt under the Oaths and Declarations Ordinance.

Following an appeal by Yau Wai-ching and Sixtus Leung, heard on 24 and 25 November, Hong Kong's Court of Appeal upheld the original decision in a judgment made on 30 November. Justice Andrew Cheung, Chief Judge of the High Court, said: "There can be no dispute that both Leung and Yau have declined respectively to take the Oath. What has been done was done deliberately and intentionally. Leung and Yau have failed the constitutional requirement. They were

automatically disqualified, there is no question of allowing them to retake the LegCo Oath.”

On 28 December, Yau and Leung confirmed that they would appeal to the Court of Final Appeal.

The courts also addressed the issue of the NPCSC’s power to make an interpretation in this case. High Court Judge Justice Thomas Au noted that case law had established that the power of the NPCSC to interpret the Basic Law was not limited to the specific provisions referred to in Article 158 of the Basic Law, and that the interpretation was binding on the court.

In the Court of Appeal judgment, Chief Judge of the High Court, Justice Andrew Cheung, noted that when the NPCSC interprets the Basic Law, it does so under the mainland’s civil law system and that: “In the absence of any evidence to show what, under a civil law system, particularly the civil law system practised on the mainland, is regarded as the proper scope of an interpretation of the present type, one simply has no material to argue, let alone conclude, that what has been done has gone outside the permissible scope of an interpretation.”

**The NPCSC’s power to interpret the Basic Law is set out clearly in Article 158 of the Basic Law. This power has been used only five times since the 1997 handover. On each occasion, its exercise has provoked debate. The most recent interpretation was the first which concerned an issue subject to ongoing judicial proceedings, giving rise to specific concerns about the effect on Hong Kong’s separate legal system and independent judiciary. On 7 November, the UK Government expressed concern about developments in the LegCo and the timing of the interpretation.**

### **Further legal action**

Following the Court of Appeal’s judgment, the Hong Kong SAR Government announced on 2 December that it had commenced legal proceedings against four other legislators: Lau Siu-lai, Edward Yiu, Nathan Law and ‘Long Hair’ Leung Kwok-

hung. In a statement, the Hong Kong SAR Government said: “The Hong Kong SAR Government and the Chief Executive have the constitutional responsibility to uphold and implement the Basic Law and execute the relevant laws under the Basic Law.” As such, the Hong Kong SAR Government had the responsibility to study the “judgments so as to decide whether or not to take any follow-up actions in respect of the question of validity of the oath-taking by other LegCo members”.

Members of the public also submitted requests for judicial reviews of the eligibility of a number of legislators. By the end of the reporting period, applications for judicial reviews of up to 27 legislators were pending decision.

Prior to an initial hearing on 15 December, pro-democracy activists protested outside the court. Further proceedings were postponed until February 2017. Civic Party legislator Alvin Yeung accused the Hong Kong SAR Government’s action of being politically motivated, while Eddie Chu expressed concerns that the Hong Kong SAR Government was using judicial review to suppress democratically elected lawmakers.

## **‘ONE COUNTRY, TWO SYSTEMS’**

Hong Kong’s relationship with the mainland and the implementation of ‘One Country, Two Systems’ remained under close scrutiny during the reporting period, in particular as a result of developments in the Legislative Council and the timing of the NPCSC’s interpretation of Article 104 of the Basic Law.

## **Central People’s Government and Hong Kong SAR Government**

During the reporting period, the CPG gave assurances that it would continue to implement faithfully ‘One Country, Two Systems’. On 1 July – the 19th anniversary of the establishment of the Hong Kong SAR – Chief Executive CY Leung said the Hong Kong SAR Government would continue to “administer Hong Kong in accordance with the law, uphold the core values of Hong Kong, and promote the stability and prosperity of Hong Kong” as well as implementing ‘One Country, Two Systems’, ‘Hong Kong people administering Hong Kong’, and a high degree of autonomy in accordance with the Basic Law.

On the same day, during an event to mark the 95th anniversary of the founding of the Chinese Communist Party, the media reported that President Xi committed to thoroughly implementing ‘One Country, Two Systems’, noting that the CPG “confidence and determination in the ‘One Country, Two Systems’ principle is absolutely unswerving, no matter what kind of difficulty or challenge we are facing”.

### **The future of ‘One Country, Two Systems’**

The focus on Hong Kong’s future after 2047 continued during the reporting period, with senior representatives of the Hong Kong SAR Government commenting publicly on the issue for the first time.

In an interview on 15 September, Chief Executive CY Leung refuted the idea that Hong Kong should prepare for a second negotiation on its constitutional future after 2047, and noted that “‘One Country, Two Systems’ serves Hong Kong well today, and in 2047 and thereafter”. In an interview with *Bauhinia* magazine in October, Secretary for Justice Rimsky Yuen said that only Article 5 of the Basic Law, which specified that socialism should not be practised in Hong Kong, had a reference to 50 years. By this logic, the law would still continue to function after 1 July 2047.

On 13 December, responding to a Legislative Council Question, Under Secretary for Constitutional and Mainland Affairs Ronald Chan said: “The Country’s sovereignty over Hong Kong will not change 50 years after Hong Kong’s return to the Motherland, nor will the Country change its basic policies towards Hong Kong after 50 years. Hence, there is no question of the expiry of the Basic Law after 2047.” Chan added that the purpose of Article 5 of the Basic Law was to “state clearly that the previous capitalist system and way of life in Hong Kong shall remain unchanged, rather than setting a time frame on it”.

**As we said in our last report, the year 2047 marks the end of the 50-year period specifically guaranteed by the Sino–British Joint Declaration, although the Basic Law and ‘One Country, Two Systems’ framework is not subject to a time limit or expiry date. The UK Government is encouraged by these indications**

**from the Hong Kong authorities that ‘One Country, Two Systems’ will not come to an end after 2047.**

## **POLITICS AND GOVERNANCE**

### **Relationship between the executive and the legislature**

The relationship between the executive and the legislature continued to be strained throughout the reporting period. Statistics published by the LegCo Secretariat in early July showed that in the legislative year 2015/16, legislators had spent more than 100 hours on quorum counts, a tactic often used to filibuster, and more hours in meetings than ever before.

On 13 September, Chief Executive CY Leung said Moody’s assessment showed that the international community had taken notice of the negative impact caused by filibustering in the LegCo. Leung urged newly elected legislators not to filibuster, noting that it had adversely affected people’s livelihood and Hong Kong’s economic development.

Further developments in the relationship between the executive and Sixth Legislative Council are reported below.

### **Chief Executive election**

The election of the 1,200-strong Election Committee that will select the next Chief Executive on 26 March 2017 took place on 11 December. The limited-franchise elections saw pro-democrats increase their share of seats from 205 to 326 following a record turnout of 46 per cent (107,000 voters). They made major gains in the subsectors representing the professions, taking all 180 seats in the Higher Education, IT, Legal, Health Services and Social Welfare subsectors.

The election took place two days after the serving Chief Executive, CY Leung, unexpectedly ruled himself out of the race citing family reasons. By the end of the

reporting period, two candidates had formally declared their candidacies: former judge Woo Kwok-hing and New People's Party Chair Regina Ip.

### **Legislative Council contacts with central authorities and travel to the mainland**

On 30 November, the Hong Kong SAR Government announced that it had received notification from the CPG that the entry restrictions imposed on certain LegCo members and other persons on entering mainland China had been relaxed with immediate effect. Media reporting of a meeting in Beijing earlier in the week between the pro-establishment group 'Silent Majority' and NPCSC Chairman Zhang Dejiang said that Zhang hoped to communicate with anyone who supports and upholds the Basic Law and 'One Country, Two Systems', and that he welcomed them to visit the mainland.

Pan-democratic legislators' reactions to the announcement were mixed. Democratic Party legislator James To said the CPG was "correcting a mistake". Former Chair of the Democratic Party, Emily Lau, said she might apply for a permit, while noting that all Chinese nationals should be able to enter the mainland freely. Lau added that it would not be ideal if only some members were granted permits. Legislator Nathan Law said he would not travel to the mainland because of safety concerns.

### **Chief Executive's annual duty visit**

Chief Executive CY Leung paid an annual duty visit to Beijing from 21 to 23 December during which he met President Xi and Premier Li. Media reports stated that President Xi praised Leung for "curbing Hong Kong independence and street violence", noting he had "worked in strict accordance with the Basic Law, the National People's Congress Standing Committee's interpretation of it and the law of Hong Kong, and safeguarded the nation's sovereignty, security and developmental interests".

## **Wang Chau housing development**

In September, the Hong Kong SAR Government faced allegations that it had colluded with rural leaders, organised crime and business interests over a proposed housing project in Wang Chau in Yuen Long District. Critics, including incoming legislator Eddie Chu who put housing development reform at the centre of his election campaign, alleged that the project was significantly scaled back after pressure from rural leaders, who were using some of the earmarked land to run illegal but lucrative businesses. In a press conference on 21 September, Chief Executive CY Leung denied any Hong Kong SAR Government wrongdoing.

## **BASIC RIGHTS AND FREEDOMS**

### **Booksellers**

The last six-monthly report detailed the return to Hong Kong of British citizen Lee Po and his colleague Lam Wing-kee, two of the five individuals associated with the Causeway Bay bookstore and Mighty Current publishing house, after a lengthy period of detention on the mainland without due process.

On 1 July, Lam Wing-kee cancelled plans to attend the annual Hong Kong Establishment Day march, citing serious threats to his personal safety. On 8 July, Hong Kong police announced that they had agreed Lam's request for personal protection in view of "his worries and the serious public concern". On 28 September, Lam told media that police protection had ceased two weeks before at his request.

In the last six-monthly report, we noted that, on 21 June, Chief Executive CY Leung wrote to the CPG asking a series of questions about law enforcement co-operation between Hong Kong and the mainland, in the context of the Causeway Bay bookstore incident. On 5 July, a Hong Kong SAR Government delegation led by the Secretary for Justice Rimsky Yuen and Secretary for Security TK Lai met the mainland authorities in Beijing to discuss the notification mechanism for the arrest of Hong Kong residents on the mainland, or mainland Chinese citizens in Hong Kong. The Hong Kong SAR Government subsequently reported that the two sides had

agreed to review the notification mechanism timeframe, content, scope and channel, to better protect the lawful rights of residents of both sides, tackle cross-border crimes, and maintain prosperity and stability.

Also on 5 July, the Ministry of Public Security issued a statement accusing Lam of violating bail conditions under which he was required to stay on the mainland. Video footage of Lam in detention, reportedly shown to Hong Kong officials during the meeting, was widely broadcast in Hong Kong on the same day. The 16-minute video showed Lam's daily life in detention and included footage of Lam confessing to having broken mainland laws.

Commenting on these developments on 7 July, the then President of the LegCo Jasper Tsang said that worries over the implementation of 'One Country, Two Systems' in Hong Kong would not be allayed while the facts of the case were not disclosed. Former legislator Ronny Tong called on the Hong Kong SAR Government to make an official statement that there would be no reoccurrence of the Causeway Bay bookstore incident in the future.

In a report published in 5 November, the non-governmental organisation PEN America recommended that the Hong Kong SAR Government secure formal assurances from the CPG that no such incident would happen again and launch a full, effective, transparent and impartial investigation into the disappearance of Lee Po. The report also called for the release of Swedish national Gui Minhai, who remains in detention on the mainland over a year since he went missing from his home in Thailand.

**The UK Government continues to be concerned by the issues raised by this case, and has raised it with the Chinese and Hong Kong SAR Governments during the reporting period.**

### **Discussion of independence in schools**

Reports that students from a number of schools planned to establish 'localist' concern groups in early August sparked a debate about discussion of independence

in schools. On 15 August, the Bureau of Education said that “no pro-independence advocacy or activities should appear in schools ... and any organisation which serves to promote independence must be banned”. Vice-President of the Professional Teachers’ Union, Cheung Yui-fai, said secondary school students should have the right to discuss Hong Kong’s independence in schools and that moves by the authorities to stop discussion on the issue hinder interaction between students and teachers.

On 23 August, Chief Executive CY Leung said: “there is little if any room for secondary school students to discuss [Hong Kong independence] because from perspectives such as historical, political, constitutional arrangements and stipulations in the Basic Law, it is very clear that Hong Kong is an inalienable part of our country.” Leung also said that advocating independence was “absolutely not a matter of free speech”.

No changes were made to guidelines for teachers on the subject of discussion of Hong Kong independence in schools.

### **Joshua Wong’s visit to Thailand**

On 5 October, pro-democracy activist Joshua Wong was detained by Thai immigration authorities at Suvarnabhumi Airport in Bangkok as he tried to enter Thailand to speak at a Chulalongkorn University event. Initial reports quoted a member of the airport immigration police as saying that China had sent a request “to seek co-operation to deny” Wong entry, though the police subsequently denied this. Later in the day, the Thai Foreign Ministry said in a statement that permission for Wong to enter Thailand “involves various factors”, while Thai Prime Minister Prayuth Chan-ocha said: “Why he was sent back is China’s issue.”

A Chinese Foreign Ministry spokesperson said that the Ministry had “noticed the relevant reports” and that “China respects Thailand’s exercise of immigration control according to the law”.

## **Marches and protests**

As well as the protests mentioned elsewhere in this report, a number of marches and other protests took place throughout the reporting period.

The theme of the annual 1 July rally was opposition to the re-election of Chief Executive CY Leung and the NPCSC's 31 August 2014 decision on universal suffrage. Police figures put the crowd at approximately 19,000 at its peak, while neutral observers from Hong Kong University estimated 26,000. The march organisers said 110,000 had joined the march overall.

Several hundred protestors led by the League of Social Democrats and other pro-democracy legislators continued the protest from its end point in Admiralty towards Government House. Police prevented the crowd from approaching Government House, using pepper spray against several members of the public and journalists.

## **Press freedom**

We have documented concerns about press freedom in successive six-monthly reports.

During this reporting period, the Hong Kong Journalists Association (HKJA) released its 2016 annual report *One Country, Two Nightmares*. The report explored the implications for Hong Kong of developments on the mainland. Other issues covered included attacks against journalists, Hong Kong's lack of freedom of information legislation, Hong Kong University's legal action to prevent media covering details of council meetings (reported in previous six-monthly reports) and the licensing system for radio and television broadcasters. The report highlighted that surveys of the public and journalists showed a decline in confidence of media freedoms.

HKJA's report called on the Hong Kong SAR Government to "take all possible measures to ensure that journalists are able to carry out their legitimate reporting duties, especially during protests; give online and student reporters carrying out

legitimate journalistic work equal access to government facilities and news feeds; enact freedom of information and archive laws to ensure that Hong Kong residents, including journalists, have proper access to government information and documents; and adopt an open way of dealing with the media by holding more press conferences”, noting that protection of press freedom and other rights was integral to Hong Kong’s success.

The HKJA findings were supported by a Hong Kong University Public Opinion Programme (HKU POP) poll in July that showed public confidence in Hong Kong’s media freedom was at its lowest point for nearly a decade.

In early December, the Hong Kong SAR Government announced that it was conducting a review on the possibility of admitting online media to government press conferences. The announcement came shortly after the Ombudsman ruled in favour of the HKJA complaint about the Hong Kong SAR Government’s policy of denying digital media outlets access to government press conferences and press releases. At the time of writing, no timeline for the review had been published.

## **Human Freedom Index**

On 29 November, the Fraser Institute published its annual Human Freedom Index, with Hong Kong retaining its number one position. The Institute uses 79 measures of personal, civil and economic freedoms to compile its list, with the 2016 report based on data from 2014. The Fraser Institute noted that Hong Kong’s position was largely due to the SAR’s economic freedom scores, and cautioned that “democracy remains the best safeguard of personal freedoms, so if China encroaches on its ‘One Country, Two Systems’ relationship with Hong Kong, we can expect Hong Kong’s rankings to drop”.

## **LEGAL, JUDICIARY AND LAW ENFORCEMENT**

### **Court cases**

A number of high-profile trials took place during the reporting period.

On 21 July, pro-democracy leaders Joshua Wong, Nathan Law and Alex Chow were found guilty of taking part in unlawful assembly, while Nathan Law was also convicted of inciting others to take part in an unlawful assembly when the Occupy Central protests started in September 2014. At sentencing on 15 August, Wong received 80 hours of community service, Nathan Law 120 hours, and Alex Chow a three-week jail sentence, suspended for one year. In October, it was reported that the courts had granted the Department of Justice leave to appeal the sentences which it had argued were too lenient.

In October, the trial began of seven police officers accused of beating Ken Tsang after he had been restrained during the Occupy Central protests. All seven officers pleaded not guilty to charges of grievous bodily harm and in one case an extra count of common assault. A verdict is expected in early 2017.

A number of cases related to the riot in Mong Kok in February 2016 took place in the reporting period. In October, Civic Passion member Chan Pak-yeung was the first person convicted; he was sentenced to nine months in prison for assault and resisting arrest. It was also reported that Hong Kong Indigenous activists Ray Wong and Edward Leung would stand trial in 2018 for their role in the riot.

In December, Secretary for Security TK Lai said that the police were still awaiting legal advice from the Department of Justice on whether or not to prosecute retired Superintendent Franklin Chu, who was filmed allegedly assaulting protestors with his baton in 2014. We have reported this case in detail in previous six-monthly reports.

### **Independent Commission Against Corruption**

In July, Commissioner of the Independent Commission Against Corruption (ICAC), Simon Peh announced that Rebecca Li, then acting head of the ICAC's Operations Department (the investigative arm of the ICAC), would be replaced. Critics suggested that Li's de-facto demotion and subsequent resignation were related to the ongoing investigation into Chief Executive CY Leung over allegations he had failed to properly declare payments totalling HK\$50m (£5.2m) to him from Australian

engineering firm UGL in 2012 and 2013. Following widespread media speculation suggesting that Peh had been influenced in his decision by the Chief Executive, Peh told the media that he had notified the Chief Executive before terminating Li's acting appointment but that this decision was his own. The Chief Executive's office also issued a statement denying that Leung had played any part in the decision-making process.

### **Public opinion and reports on rule of law issues**

In December, HKU POP published an update to its regular poll on public satisfaction with Hong Kong's disciplinary forces. The poll showed that the public was the least satisfied with the ICAC (net satisfaction was 30.1 per cent, compared with 50 per cent six months earlier). The net satisfaction rate for the Hong Kong police was 38.3 per cent, the highest since the 2014 Occupy Central protests.

Also in December, the Commissioner on Interception of Communications and Surveillance criticised law enforcement agencies in his annual report which summarised his findings on nine cases of non-compliance or irregularities. Justice Azizul Suffiad said that the cases showed that the agencies involved lacked diligence, had disregarded the spirit of the surveillance laws and had possibly intended to cover up mistakes.

On 20 October, the World Justice Project (WJP) published its Rule of Law Index 2016. According to the Index, Hong Kong's overall rule of law performance places it at five out of 15 countries in the East Asia and Pacific region, 16 out of 36 among high-income countries, and 16 out of 113 countries and jurisdictions worldwide.

**Confidence in Hong Kong's rule of law and the independence of the judiciary are essential elements of 'One Country, Two Systems', and key to Hong Kong's prosperity and stability. As reflected earlier in this report, both have been under close scrutiny as a result of developments during the reporting period. We believe that, despite challenges, Hong Kong's rule of law remains robust overall, thanks in large part to a world-class, independent judiciary.**

## **EQUALITY**

Over 10,000 people attended the Pink Dot lesbian, gay, bisexual and transgender (LGBT) diversity and equality rally on 25 September. The event took place in West Kowloon for the first time, having outgrown its previous Tamar Park home. The annual Pride parade took place on 28 November.

In December, anti-gay rights protestors staged demonstrations outside the HSBC building in Central and launched a petition against the installation of two multi-coloured replica lions to stand alongside the bank's iconic bronze lion statues. The multi-coloured replicas were decorated by Hong Kong artist Michael Lam and were displayed throughout December as part of HSBC's 'Celebrate Pride, Celebrate Unity' campaign. A spokesperson for HSBC said: "Having a workforce that reflects the diversity of our millions of customers in Hong Kong and which draws on a wide range of perspectives makes us better able to serve the whole community."

Our last six-monthly report detailed the Equal Opportunities Commission's recommendations for comprehensive reforms to the anti-discrimination legislation, published on 29 March 2016. By the end of the reporting period, no changes had been made to the anti-discrimination legislation.

## **ECONOMY**

The Hong Kong economy regained some momentum in the reporting period, growing by 1.9 per cent in real terms (year-on-year) in the third quarter, up from 1.7 per cent growth in the preceding quarter. Growth was largely underpinned by a pick-up in exports fuelled by the gradual recovery in the Chinese economy, as well as a 6 per cent rise in investment expenditure and strengthened domestic demand. Private consumption rose in real terms of 1.2 per cent in the third quarter of 2016.

Property prices continued to rise steeply (taking the total increase in 2016 to 17 per cent) and remaining high relative to incomes. The Hong Kong SAR Government doubled stamp duty to 15 per cent for non-first-time buyers in November in order to slow price rises and cool the overheated housing market.

Hong Kong's goods exports grew by 1.9 per cent in real terms in the third quarter of 2016. This was driven in particular by growth of 1.2 per cent in exports to the US in the third quarter, and continued growth in exports to mainland China (2.7 per cent growth in the third quarter) and other Asian markets. Exports of services also improved, declining by 1.8 per cent compared with 4.6 per cent in the preceding quarter. However, total visitor arrivals in Hong Kong dropped from five million in July to 4.6 million in November 2016 – mainly driven by a significant fall in visitor numbers from mainland China.

Offshore Renminbi (RMB) business fell further in the third quarter. RMB deposits shrank 6.7 per cent to RMB743.2bn at the end of September. Settlement transactions of traded RMB handled by banks in Hong Kong fell by 3.7 per cent from the second quarter (down 42 per cent compared with the third quarter of 2015). However, RMB-related financing showed some expansion. In particular, RMB bond issuance grew by 27 per cent, from RMB6.7bn in the second quarter to RMB8.5bn in the third quarter, while bank lending grew by 7 per cent over the third quarter of 2016 to RMB307.4bn.

### **Hong Kong SAR Customs**

On 23 November, Hong Kong SAR Customs detained nine armoured vehicles that were being shipped from Taiwan to Singapore. Media reports claim that the shipment was impounded because the vessel owner (APL) had failed to provide appropriate permits for the vehicles. By the end of the reporting period, the vehicles remained impounded.

## **UK–HONG KONG BILATERAL RELATIONS**

### **Visits**

There were a number of senior UK visitors to Hong Kong during the reporting period. The FCO Minister for Asia and the Pacific, Alok Sharma MP, visited in December for meetings with the Chief Secretary Carrie Lam, legislators and representatives of civil

society. The Minister also addressed business leaders at the British Chamber of Commerce.

The Parliamentary Under-Secretary at the Department for International Trade, Mark Garnier MP; the then Minister of State at the Department for Business, Innovation and Skills and the FCO, Lord Price; the then Minister of State at the Department for Business, Energy and Industrial Strategy, Baroness Neville-Rolfe DBE CMG; and the then Lord Mayor of the City of London, Alderman the Lord Mountevans, also visited Hong Kong during this reporting period.

Chief Secretary Carrie Lam and Secretary for Security TK Lai visited the UK in September and November respectively. Chief Secretary Carrie Lam met the Chancellor of the Exchequer, the Rt. Hon. Philip Hammond MP, and the Secretary of State for Culture, Media and Sport, the Rt. Hon. Karen Bradley MP. Secretary for Security TK Lai met the Home Office Minister of State for Security, Ben Wallace MP.

In December, a four-person team from the British Army School of Ceremonial delivered two weeks of ceremonial training at the Hong Kong Police College at the invitation of the Hong Kong police.

### **UK–Hong Kong economic partnership**

The annual London–Hong Kong RMB Forum was held in London on 6 and 7 December, bringing the major banks from the UK and Hong Kong together with policy makers to discuss the development of the offshore RMB market. The UK's Financial Conduct Authority signed a regulatory co-operation agreement on Financial Technology (FinTech) with the Hong Kong Monetary Authority, aimed at supporting the growth of the global FinTech market. In October, HM Revenue and Customs and the Hong Kong Financial Services and Treasury Bureau signed a bilateral Competent Authority Agreement on the automatic exchange of information on taxation. This agreement will strengthen the efforts of the UK and Hong Kong SAR authorities to tackle money laundering, tax evasion and other financial crime.

## **Bilateral trade and investment**

UK companies continued to pursue export opportunities in Hong Kong during the second half of 2016. The Department for International Trade (DIT) in Hong Kong arranged a number of trade missions to Hong Kong on healthcare, education and the creative industries. DIT also organised for the first time a delegation of British publishers to the Hong Kong Book Fair – one of the largest publishing fairs in the world. Since April 2016, DIT in Hong Kong has supported UK companies to land more than £275m in export wins.

On 4 October, DIT renewed its Memorandum of Understanding (MoU) with the Hong Kong Trade Development Council (TDC) to collaborate on promoting UK exporters. The renewed MoU now emphasises collaboration on China's Belt and Road initiative<sup>1</sup> as well as on Hong Kong TDC's 'Think Asia, Think Hong Kong' conference which will be held in London on 21 September 2017. This will focus on attracting more UK companies to Hong Kong across a range of sectors.

Ministerial visits during this period all had a strong export focus. Lord Price's visit emphasised UK healthcare to the Hospital Authority. Trade Minister Mark Garnier helped launch Detroit Electric's new model of electric car produced in Leamington Spa. Mr Sharma supported UK rail exports through a meeting with Hong Kong rail operators MTR. Baroness Neville-Rolfe promoted UK expertise in the energy sector to CLP, a large Hong Kong utilities company.

The Lord Mayor of the City of London used his visit to encourage co-operation between the maritime centres of Hong Kong and London and was keen to ensure that London is well placed to capitalise on maritime services opportunities arising from the Belt and Road initiative. His trip coincided with DIT Hong Kong's second annual GREAT FinTech Awards ceremony, where one Hong Kong and one mainland Chinese company won a business development trip to the UK. The 2015 winners, Lattice and Ironfly, are both currently setting up offices in the UK.

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<sup>1</sup> Belt and Road (also known as 'One Belt, One Road') is a flagship policy initiative of Chinese President Xi, aimed at developing infrastructure and trade links between China and more than 60 countries.

Investment continued to flow from Hong Kong to the UK in the last few months of the reporting period. Bank of East Asia expanded its presence in the UK and asset management firm Value Partners launched a UK presence. Large-scale investment into regeneration projects included Far East Consortium's appointment to develop the Angel Meadows site in Manchester, Top Capital Group's £55m investment into a key central Birmingham brownfield site and Knight Dragon's Greenwich Peninsula Development which will create 12,000 UK jobs.

The GREAT campaign supported trade and investment work in Hong Kong during the second half of 2016, most notably through an extensive Red Arrows visit programme focusing on advanced engineering and education. GREAT also enabled a Shakespeare first folio exhibition to promote UK education, publishing and retail and supported British Airway's (BA) exhibition to celebrate 80 years of BA flying to Hong Kong.

### **Education and the arts**

The UK continues to hold a significant market share of English-speaking study destinations for Hong Kong higher education students, and despite a declining overall student body (arising from local demographics), remains an attractive study destination for Hong Kong students. According to UCAS 2016 end of cycle data, 3,880 Hong Kong students were accepted into UK universities in the 2016–17 academic year.

The 2016–17 academic year saw 17 students awarded a scholarship through the Scholarships for Excellence programme, which provides an opportunity for students studying at higher education institutions in England to spend up to a full year studying in Hong Kong as part of their degrees.

In September, the Social Enterprise World Forum was held in Hong Kong, the second time it has been held in Asia. There were 18 UK speakers featured on the programme, including three from the British Council, demonstrating UK leadership in the social economy worldwide. Additionally, 34 young social entrepreneurs from 14

countries participating in the British Council's Active Citizens programme attended the Forum.

In terms of research, the British Council partnered with Serio and Futures Entrepreneurial Centre at Plymouth University on a series of studies that examine the benefits and challenges of partnership between higher education institutions and social enterprises in 12 countries and territories, including Hong Kong.

In the arts, the world premiere of *Miranda and Caliban: The Making of a Monster* was co-presented by the British Council and the Leisure and Cultural Services Department, Hong Kong SAR Government, at the New Vision Arts Festival in November. Inspired by *The Tempest*, disabled, deaf and non-disabled artists in Hong Kong and from the UK worked together to create a new show for a live audience in Hong Kong and live-streamed simultaneously with Glasgow. The production formed part of the British Council's 'Shakespeare Lives' celebrations, which marked the 400th anniversary of Shakespeare's death. The British Council also presented the Asian premiere of an exhibition, '11 Million Reasons'. Created by emerging photographer Sean Goldthorpe, the project profiled deaf and disabled people in dance activities through 20 images inspired by iconic dance moments in film.

The British Council collaborated with the Hong Kong TDC to bring the TS Eliot Prize-winning poet Sarah Howe to the Hong Kong Book Fair in the summer, and also invited Helen Oyeyemi, one of Granta's Best Young British Novelists in 2013, to join a series of events at the Hong Kong International Literary Festival. The British musician Soumik Datta also shared his music journey with audiences at the New Vision Festival, and the award-winning playwright Kaite O'Reilly spoke about her 25-year journey in working for inclusive practice at the Hong Kong Black Box Theatre Festival. The British Council also continued to work with Broadway Circus to present 68 screenings from innovative productions by National Theatre Live and the Kenneth Branagh Theatre Company.

## CONCLUSION

This series of six-monthly reports to Parliament reflects the importance that the UK Government attaches to the continued full and faithful implementation of the Sino–British Joint Declaration on Hong Kong.

We assess that ‘One Country, Two Systems’ continued to function well in the vast majority of areas. Nevertheless, during the reporting period a number of developments caused concern in Hong Kong and internationally, affecting confidence in ‘One Country, Two Systems’. These developments included the events surrounding the LegCo elections and the subsequent oath-taking by elected legislators; and continuing concerns about the exercise of rights and freedoms guaranteed by the Joint Declaration, including freedom of expression and the freedom of the press.

It remains the UK Government’s view that for full confidence to be restored in ‘One Country, Two Systems’, it is essential that Hong Kong enjoys, and is seen to enjoy, the full measure of its high degree of autonomy enshrined in the Basic Law, and guaranteed by the Sino–British Joint Declaration. We therefore continue to urge the Chinese and Hong Kong SAR Governments and all elected politicians in Hong Kong to take the necessary steps to maintain confidence in the ‘One Country, Two Systems’ principle. Hong Kong’s prosperity and stability depend on its successful implementation, as provided for by the Joint Declaration and Basic Law.

## **LIST OF ABBREVIATIONS**

<b>CGLO</b>	Central Government Liaison Office
<b>CPG</b>	Central People's Government
<b>DAB</b>	Democratic Alliance for the Betterment and Progress of Hong Kong
<b>DIT</b>	Department for International Trade
<b>EAC</b>	Electoral Affairs Commission
<b>FinTech</b>	Financial Technology
<b>HKJA</b>	Hong Kong Journalists Association
<b>HKU POP</b>	Hong Kong University's Public Opinion Programme
<b>ICAC</b>	Independent Commission Against Corruption
<b>LegCo</b>	Legislative Council
<b>MoU</b>	Memorandum of Understanding
<b>NPC</b>	National People's Congress
<b>NPCSC</b>	Standing Committee of the National People's Congress
<b>RMB</b>	Renminbi
<b>SAR</b>	Special Administrative Region
<b>TDC</b>	Trade Development Council