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Human Rights in Asia-Pacific; Review of 2019 - Hong Kong

There was a rapid deterioration in the rights to freedom of peaceful assembly, expression and association as the Hong Kong authorities increasingly adopted mainland China’s vague and all-encompassing definition of national security.[1] Faced with mass protests, the government first suspended and then in September formally withdrew a proposed Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation Bill (the Extradition Bill), which would have allowed the handover of persons in Hong Kong to mainland China. After months of protest, pro-democracy parties had landslide wins in district elections with historically high voter turnout.

Freedom of peaceful assembly

If enacted, the Extradition Bill would have exposed individuals in Hong Kong to mainland China’s criminal justice system, which has a well-documented record of human rights violations.[2]

The bill’s proposal triggered a series of protests beginning in April, including three mass peaceful protests with estimated numbers of over one million, two million and 1.7 million people marching peacefully on the streets on 9 June, 16 June and 18 August, respectively. Although the government announced withdrawal of the Extradition Bill on 4 September, the movement broadened its calls with additional demands, including for an independent and impartial investigation into the use of force by police. As the year went on, both the police and protesters escalated violence. [3]

Hong Kong police responded to the protests with unnecessary and excessive use of force. Amnesty International documented the police’s dangerous use of rubber bullets and bean bag rounds; beating protesters who were not resisting; aggressive tactics to obstruct journalists at protest sites; and misuse of pepper spray and tear gas,[4] as well as evidence of torture and other ill-treatment in detention.[5] On 31 August, police started deploying water cannons, mixed with irritants and dye that indiscriminately marked individuals for identification later.[6] In October, the government invoked a colonial-era law, the Emergency Regulations Ordinance, to ban full or partial face coverings at protests.[7] The High Court later ruled the ban unconstitutional. The government’s appeal of this decision will be heard in 2020.

Prisoners of conscience

The government used vague charges to prosecute and imprison activists for their peaceful exercise of the rights to peaceful assembly and expression. In April, nine leaders of the pro-democracy Umbrella Movement protests in 2015 were convicted on vague “public nuisance”-related charges. Law professor Benny Tai and sociology professor Chan Kin-man were each sentenced to 16 months’ imprisonment. Political party leader Raphael Wong and lawmaker Shiu Ka-chun were imprisoned for eight months each. Prosecutors cited press conferences, media interviews and public meetings in which the pro-democracy leaders had discussed their non-violent campaign of direct action as key evidence to support the accusations of unlawful behaviour.[8] In August, Benny Tai was released on bail pending an appeal.

Economic, social and cultural rights

In March, housing rights activist Yip Po-lam’s sentence of two weeks’ imprisonment was upheld for staging a sit-in at the Legislative Council against the Northeast New Territories New Development Project in 2014. Activists and affected villagers have protested for years against the major infrastructure project proposed by the government, raising concerns about alleged collusion between government and property developers and the potential for forced evictions of local villagers and environmental damage.

Rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people

In June, the Court of Final Appeal held that restricting spousal employment benefits and joint tax assessment to opposite-sex marriages amounted to sexual orientation discrimination.[9] However, the High Court rejected claims against the requirement for transgender people to undergo surgery before having their gender legally recognized, and for same-sex marriage.[10]

[1] Amnesty International, Beijing’s “Red Line” in Hong Kong (ASA 17/0944/2019 (<https://www.amnesty.org/en/documents/asa17/0944/2019/en/>))

[2] Amnesty International, Hong Kong: Proposed extradition law amendments a dangerous threat to human rights (Press release (<https://www.amnesty.org/en/press-releases/2019/06/hong-kong-extradition-law-advisory/>), 7 June 2019)

[3] Amnesty International Hong Kong, Open letter to the Chief Executive – calling for an independent commission of inquiry (Press release (<http://www.amnesty.org.hk/en/open-letter-to-the-chief-executive-calling-for-an-independent-commission-of-inquiry/>), 28 June 2019)

[4] Amnesty International, How not to police a protest: Unlawful use of force by Hong Kong police (ASA 17/0576/2019 (https://www.amnesty.org/en/documents/asa17/0576/2019/en/))

[5] Amnesty International, Hong Kong: Arbitrary arrests, brutal beatings and other torture in police detention revealed (Press release (https://www.amnesty.org/en/latest/news/2019/09/hong-kong-arbitrary-arrests-brutal-beatings-and-torture-in-police-detention-revealed/), 19 September 2019)

[6] Amnesty International, Hong Kong: Water cannons pose real danger in hands of trigger-happy police (Press release (https://www.amnesty.org/en/latest/news/2019/08/hong-kong-police-water-cannon-danger/), 9 August 2019)

[7] Amnesty International, Hong Kong: Emergency powers are an extreme attempt to quash protests (Press release (https://www.amnesty.org/en/latest/news/2019/10/hong-kong-emergency-powers-are-an-extreme-attempt-to-quash-protests/), 4 October 2019)

[8] Amnesty International, Hong Kong: Free jailed pro-democracy Umbrella Movement protest leaders, (Press release (https://www.amnesty.org/en/latest/news/2019/04/hong-kong-free-jailed-pro-democracy-umbrella-movement-protest-leaders/), 24 April 2019)

[9] Amnesty International, Hong Kong: Court ruling a huge step forward for same-sex equality, (Press release (https://www.amnesty.org/en/latest/news/2019/06/hong-kong-same-sex-equality-ruling-victory/), 6 June 2019)

[10] Amnesty International, Hong Kong: Court ruling a setback in fight for equality for transgender people (Press release (https://www.amnesty.org/en/latest/news/2019/02/hong-kong-setback-for-equality-for-transgender-people/), 1 February 2019); Hong Kong: A serious setback for equal marriage (Press release (https://www.amnesty.org/en/latest/news/2019/10/hong-kong-a-serious-setback-for-equal-marriage/), 18 October 2019)

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