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Freedom in the World 2011 - Hong Kong

Capital: N/A

Population: 7,100,000

Political Rights Score: 5 *

Civil Liberties Score: 2 *

Status: Partly Free

Overview

In June 2010, after months of consultation and closed-door negotiations, the Hong Kong legislature approved electoral reforms that would enable a slim majority of lawmakers to be elected by popular vote for the first time, though the existing semidemocratic system would largely be preserved. Separately, Beijing's growing influence over Hong Kong's politics, media landscape, and immigration policies was evident during the year, and Hong Kong police appeared less tolerant of public protests.

Hong Kong Island was ceded in perpetuity to Britain in 1842; adjacent territories were subsequently added, and the last section was leased to Britain in 1898 for a period of 99 years. In the 1984 Sino-British Joint Declaration, London agreed to restore the entire colony to China in 1997. In return, Beijing – under its "one country, two systems" formula – pledged to maintain the enclave's legal, political, and economic autonomy for 50 years.

Under the 1984 agreement, a constitution for the Hong Kong Special Administrative Region, known as the Basic Law, took effect in 1997. The Basic Law stated that universal suffrage was the "ultimate aim" for Hong Kong, but it allowed direct elections for only 18 seats in the 60-member Legislative Council (Legco), and provided for the gradual expansion of elected seats to 30 by 2003. After China took control, it temporarily suspended the Legco and installed a provisional legislature that repealed or tightened several civil liberties laws during its 10-month tenure.

Tung Chee-hwa was chosen as Hong Kong's chief executive by a Beijing-organized election committee in 1997, and his popularity waned as Beijing became increasingly involved in Hong Kong's affairs, raising fears that civic freedoms would be compromised. Officials were forced to withdraw a restrictive antsubversion bill after it sparked mass protests in July 2003.

Pro-Beijing parties retained control of the Legco in 2004 elections, which were marred by intimidation that was thought to have been organized by Beijing. In 2005, with two years left to serve, the deeply unpopular Tung resigned. He was replaced by career civil servant Donald Tsang, and China's National People's Congress (NPC) decided that Tsang would serve out the remainder of Tung's term before facing election. In 2007, Hong Kong held competitive elections for chief executive after democracy supporters on the 800-member election committee nominated a second candidate, Alan Leong. However, Tsang won a new term by a wide margin, garnering 82 percent of the votes in the mostly pro-Beijing election committee.

Pro-Beijing parties again won Legco elections in September 2008, taking 30 seats, though few of those members were elected by popular vote. The prodemocracy camp won 23 seats, including 19 by popular vote, enabling them to retain a veto over proposed constitutional reforms.

In November 2009, the government published a consultation document on proposed electoral reforms for the 2012 polls that would ostensibly serve as a transitional arrangement until the adoption of universal suffrage. Following months of public consultations and closed-door negotiations, a compromise was reached between the Hong Kong government, Beijing, and the

Democratic Party (DP) in the Legco, which approved the reforms in June 2010. The new system would enable a narrow majority of Legco members to be elected by popular vote for the first time, but many in the prodemocracy camp criticized the plan, which largely preserved the semidemocratic status quo and provided no guarantees of future universal suffrage.

Political Rights and Civil Liberties

Hong Kong's Basic Law calls for the election of a chief executive and a unicameral Legislative Council (Legco). The chief executive is elected by an 800-member committee: some 200,000 "functional constituency" voters – representatives of various elite business and social sectors, many with close ties to Beijing – elect 600 of the committee's members, and the remaining 200 consist of Legco members, Hong Kong delegates to the NPC, religious representatives, and 41 members of the Chinese People's Political Consultative Conference (CPPCC), a mainland advisory body. The chief executive serves a five-year term.

The Legco consists of 30 directly elected members and 30 members chosen by the functional constituency voters. Legco members serve four-year terms. 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. In the territory's multiparty system, the five main parties are the prodemocracy DP, Civic Party, and League of Social Democrats; the pro-Beijing Democratic Alliance for the Betterment and Progress of Hong Kong; and the business-oriented Liberal Party.

The 2008 Legco elections were procedurally free and fair, but the semidemocratic structure of the legislature meant that the prodemocracy camp remained a minority despite winning nearly 60 percent of the popular vote. Unlike in 2004, the elections were not accompanied by overt intimidation or threats, though indirect pressure and influence from Beijing was nonetheless evident.

Under the electoral reforms passed in June 2010, the election committee for the chief executive will expand from 800 to 1,200 members in 2012, but will otherwise retain its existing composition. More significantly, the Legco will expand from 60 to 70 seats. Five of the new members will be chosen through direct elections based on geographical constituencies. Members of Hong Kong's 18 district councils will nominate the other five candidates from among themselves, and nominees will then face a full popular vote. Despite this modest step toward democracy, the reforms did not include specific plans for the adoption of universal suffrage. The NPC had ruled in 2007 that universal suffrage might be adopted in 2017 for chief executive and 2020 for the Legco. The issue's omission from the 2010 reforms heightened fears that the transition would be pushed further into the future. The debate prompted a split in the prodemocracy camp, as DP leaders favored the reforms, while the Civic Party, the League of Social Democrats, and some DP members opposed them as inadequate.

Beijing's influence over Hong Kong's politics, media landscape, and immigration policies remained evident during 2010. Five Legco members from the Civic Party and the League of Social Democrats resigned in January 2010 to protest the draft electoral reforms initially proposed by the government, setting the stage for by-elections that would test public support for universal suffrage. However, shortly after the mainland liaison office publicly condemned the move as a "blatant challenge" to China's authority, pro-Beijing parties in the Legco announced a boycott of the by-elections. As a result, all five lawmakers easily won their seats back.

Hong Kong is generally regarded as having low rates of corruption, though business interests have considerable influence on the Legco. The right to access government information is guaranteed by the Code on Access to Information and generally respected in practice. However, in January 2010, the territory's ombudsman found the civil service's compliance with the code to be deficient in some respects, noting a growing number of complaints in recent years that reasonable requests for information had been rejected. Hong Kong was ranked 13 out of 178 polities surveyed in Transparency International's 2010 Corruption Perceptions Index.

Under Article 27 of the Basic Law, Hong Kong residents enjoy freedoms of speech, press, and publication. These rights are generally respected in practice, and political debate is vigorous. There are dozens of daily newspapers, and residents have access to international radio broadcasts and satellite television. International media organizations operate without interference. Nonetheless, Beijing's growing influence over the news media, book publishing, and arts industries has led to self-censorship. This influence stems in part from the close relationship between Hong Kong media owners and the central authorities; at least 10 such owners sit on the CPPCC. In some cases, pressure from Beijing has been more direct. In June 2010, a Hong Kong publisher was forced to stop printing a memoir by former Chinese premier Li Peng, known as a driving force behind the 1989 Tiananmen Square crackdown, after Chinese officials warned that the publication would violate copyright laws. Nevertheless, a copy of the manuscript was circulated online in both China and Hong Kong.

Hong Kong journalists face a number of restrictions when covering events on the mainland. In April 2010, Shanghai authorities denied accreditation to reporters from *Apple Daily* who were seeking to cover the World Expo. While violence against journalists is rare in Hong Kong, reporters from the territory have repeatedly faced surveillance, intimidation, beatings, and occasional imprisonment when reporting on the mainland. Several incidents of intimidation and attacks occurred in 2010. In December, a crowd that included members of the local residential

committee attacked several Hong Kong journalists outside the Beijing home of jailed activist Zhao Lianhai; police reportedly declined to intervene or assist the victims.

The Hong Kong government, rather than an independent regulator, controls media licensing in the territory, though a law passed in January 2010 imposed fixed criteria for licensing decisions. Authorities continued to obstruct broadcasts by the prodemocracy station Citizens' Radio, whose license application was rejected in 2006. The station was raided in March, May, and December, and its equipment was confiscated. In April, authorities warned candidates in Legco by-elections that it was a criminal offense to participate in the station's "illegal broadcasts." A new government-appointed advisory board for the state-owned Radio Television Hong Kong was unveiled in August 2010; by year's end, the board had taken no steps to curb the broadcaster's editorial independence, as some had feared.

The Basic Law provides for freedom of religion, which is generally respected in practice. Religious groups are excluded from the Societies Ordinance, which requires nongovernmental organizations (NGOs) to register with the government. Adherents of the Falun Gong spiritual movement, which is persecuted on the mainland, remain free to practice in the territory and hold occasional demonstrations. In September 2010, authorities rejected an application by Hong Kong Catholics to show solidarity with persecuted mainland Christians by holding a prayer meeting in a public park. The government claimed the available space was too small, but one of the organizers reported being told that the gathering was too politically sensitive.

University professors can write and lecture freely, and political debate on campuses is lively. In June 2010, however, Chinese University officials rejected students' applications to permanently display a Goddess of Democracy statue on campus, claiming it violated principles of "political neutrality." After a public outcry, the statue was allowed on campus for the anniversary of the 1989 Tiananmen Square crackdown and was still up at year's end, though its long-term status remained unclear.

The Basic Law guarantees freedoms of assembly and association. Police permits for demonstrations are required but rarely denied, and protests on politically sensitive issues are held regularly. Nevertheless, police were more confrontational with protesters in 2010 than in the past, and over 50 demonstrators were arrested during the year, according to local civic groups. Some faced questionable charges of assaulting police, and while there were several high-profile acquittals in court, many cases were still pending at year's end.

Hong Kong hosts a vibrant and largely unfettered NGO sector, and trade unions are independent. However, there is limited legal protection for basic labor rights. Collective-bargaining rights are not recognized, protections against antiunion discrimination are weak, and there are few regulations on working hours. In July 2010, the Legco passed the territory's first minimum-wage law, set to take effect in 2011.

The judiciary is independent, and the trial process is fair. The NPC reserves the right to make final interpretations of the Basic Law, effectively limiting the power of Hong Kong's Court of Final Appeals. While the NPC has not directly intervened in court cases for a number of years, there have been signs of growing influence from Beijing over law enforcement matters. In January 2010, U.S.-based Tiananmen Square activist Zhou Yongjun was sentenced on the mainland to nine years in prison for bank fraud, having been detained in Hong Kong in 2008 and, in an unusual move, handed over to mainland authorities. However, in a positive development, respected jurist Geoffrey Ma Tao-li was appointed as the new chief justice of the Hong Kong judiciary in September 2010, and most observers expected him to uphold the same standards of independence as outgoing chief justice Andrew Li Kwok-nang, who had served since the end of colonial rule.

Police are forbidden by law to employ torture and other forms of abuse. They generally respect this ban in practice, and complaints of abuse are investigated. Arbitrary arrest and detention are illegal; suspects must be charged within 48 hours of their arrest. Prison conditions generally meet international standards.

Citizens are treated equally under the law, though Hong Kong's population of 200,000 foreign domestic workers remains vulnerable to abuse, and South Asians routinely complain of discrimination in employment. Since foreign workers face deportation if dismissed, many are reluctant to bring complaints against employers. A Race Discrimination Ordinance that took effect in July 2009 created an independent Equal Opportunities Commission to enforce its protections, but it has been criticized for excluding discrimination through government actions and against immigrants.

The government does not control travel, choice of residence, or employment within Hong Kong, but documents are required to travel to the mainland, and employers must apply to bring in workers from China; direct applications from workers are not accepted. Hong Kong maintains its own immigration system, but periodic denials of entry to democracy activists, Falun Gong practitioners, and others have raised suspicions that the government is enforcing a Beijing-imposed political blacklist, particularly at sensitive times. In January 2010, the authorities denied visas to six members of the production team of Shen Yun Performing Arts, a traditional Chinese dance company based in New York, whose performances include some numbers artistically portraying the persecution against Falun Gong in China. The company was also forced to cancel a series of sold-out shows. In June, officials denied entry to Chen Weiming, the sculptor of a replica of the Goddess of Democracy statue that stood among the Tiananmen Square protesters in 1989, and sent him back to the United States. In recent years, several

© UNHCR Legco members and human rights activists from Hong Kong have been barred entry to the mainland, as well as to Macau since that territory passed new national security legislation in 2009.

Women are protected by law from discrimination and abuse, and they are entitled to equal access to schooling and to property in divorce settlements. However, women continue to face discrimination in employment opportunities, salary, inheritance, and welfare. Despite robust efforts by the government, Hong Kong remains a point of transit and destination for persons trafficked for sexual exploitation or forced labor.

** Countries are ranked on a scale of 1-7, with 1 representing the highest level of freedom and 7 representing the lowest level of freedom.*

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