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Freedom of the Press 2017 - Hong Kong

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Press Freedom Status: Partly Free

Total Score: 42/100 (↓3) (0 = Most Free, 100 = Least Free)

Legal Environment: 13/30

Political Environment: 20/40 (↓3)

Economic Environment: 9/30

Quick Facts

Population: 7,300,000

Freedom in the World Status: Partly Free

Internet Penetration Rate: 84.9%

Key Developments in 2016:

- The five Hong Kong booksellers who disappeared in late 2015 resurfaced early in the year, confirming that they had been in police custody on the mainland and issuing statements that raised suspicions of coercion.
- In July, the *South China Morning Post*, Hong Kong's leading English-language newspaper, published a mysterious "confessional" interview with a recently detained mainland Chinese legal activist, stoking concerns that the paper's 2015 acquisition by the mainland e-commerce giant Alibaba had compromised its editorial independence and allowed it to serve as a conduit for Chinese government propaganda.
- As Hong Kong's political environment grew more tense in the context of the year's legislative elections, journalists encountered physical violence and threats while covering protests.

Executive Summary

Conditions for press freedom in Hong Kong have deteriorated over the last several years. Residents of the semiautonomous territory – formally a special administrative region of China – continue to enjoy much greater political rights and civil liberties than their counterparts on the mainland, including access to diverse news media and freedom from internet censorship. However, Hong Kong journalists have faced a growing risk of violence in the course of their

work, and media independence is increasingly undermined by local authorities, pressure from Beijing, and the role of wealthy owners with political and business interests in mainland China.

Threats to media autonomy took a variety of forms during 2016. In September, Hong Kong chief executive Leung Chun-ying threatened to file a defamation lawsuit against the independent newspaper *Apple Daily* after it reported on corruption allegations against him. On several occasions, journalists reported being assaulted during heated confrontations with protesters or police. The ordeal of five Hong Kong booksellers who disappeared in late 2015 and reemerged in Chinese custody in early 2016 had a chilling effect on the book market in the territory, with companies and customers reportedly avoiding books on politically sensitive topics. And a series of government decisions on free-to-air broadcast licenses during the year appeared to favor firms with close ties to the mainland; additional applications from such groups were pending.

In a sign of Beijing's growing influence, the traditionally independent *South China Morning Post* joined some other Hong Kong outlets in carrying "confessional" interviews with mainland political detainees, drawing criticism that they were serving as Chinese government mouthpieces. The *Post*, which published an unsigned interview with legal assistant Zhao Wei after she had spent a year in detention, had recently been acquired by Alibaba, a Chinese e-commerce company that depends on Beijing's goodwill for its continued success.

A number of news outlets downplayed or ignored coverage of the Panama Papers, a trove of leaked legal documents that revealed potentially corrupt business activities by powerful individuals around the world, including in Hong Kong and China. The chief editor of the newspaper *Ming Pao* was fired immediately after it published a front-page story on the scandal in April. Separately, in October the newly licensed television station ViuTV pulled a program in which a former student leader and an exiled mainland activist debated the issue of Hong Kong independence during a trip to Japan.

Journalists continued to develop new, independent online outlets using nonprofit funding models in 2016, but it was unclear whether they could compete with large commercial enterprises, and the projects remained hampered by the government's policy of denying online-only news organizations accredited access to its press events and news releases.

Legal Environment: 13 / 30

Under Article 27 of the Basic Law, Hong Kong residents enjoy freedoms of speech, press, and publication, and these rights are generally upheld by the territory's independent courts. However, they risk being undermined by the power of the National People's Congress (NPC), China's rubber-stamp parliament, to make final interpretations of the Basic Law, as well as by Chinese surveillance in the territory and the mainland economic interests of local media owners. Moreover, the perpetrators and especially the organizers of attacks on journalists in recent years have often gone unpunished, creating a climate of impunity.

Hong Kong's Defamation Ordinance establishes both fines and prison time for violations, though the latter punishment is rarely used. In September 2016, lawyers for Leung Chun-ying, Hong Kong's chief executive, issued a letter to *Apple Daily* demanding that the paper retract an editorial about controversial payments he had received from the Australian company UGL in 2012 and 2013. The letter claimed that the editorial was defamatory and called on *Apple Daily* to cease publishing any articles accusing Leung of corruption. The paper refused to comply with the demands, and Leung had not taken legal action as of December.

In July 2016, a judge granted a permanent injunction requested by the University of Hong Kong (HKU) to prevent the dissemination of recordings of its governing council meetings between June and October 2015 that were not already in the public domain. The radio broadcaster Commercial

Radio had obtained recordings of a confidential September meeting in which the council rejected the appointment of a prodemocracy professor to a high-level administrative post. HKU secured an interim injunction in October of that year, and Commercial Radio agreed to abide by it, but the order was challenged by the Hong Kong Journalists Association (HKJA), leading to the 2016 ruling. The court found that there was a public interest in preserving confidences such as those shared at the council meetings. The HKJA deemed the ruling a bad precedent that would "further undermine press freedom."

Hong Kong has no freedom of information (FOI) law. An administrative code – the Code of Access to Information – is intended to ensure open access to government records, but official adherence is inconsistent, prompting local journalists and watchdog groups to urge the government to give freedom of information requirements the force of law. The government has stated that it is deferring a decision on FOI legislation until after a Law Reform Commission subcommittee report on the subject, originally expected before 2016. However, the subcommittee had yet to announce the completion of its study or release its report by the end of 2016.

As part of the broader effort to ensure freedom of information, press advocates have called for an archive law to preserve government documents. As with the FOI law proposal, the executive branch has cited an ongoing Law Reform Commission subcommittee study, initiated in June 2013, as its reason for not considering archive legislation. Such studies often take several years to complete and produce recommendations that the government is not obligated to follow. No progress on the subcommittee's report was announced by the end of 2016.

Press freedom advocates continue to question the constitutionality of existing procedures for granting licenses to new media outlets. Although a nominally independent Communications Authority provides recommendations, the executive branch makes final decisions on licenses, and in practice the process has raised concerns about the growing influence of pro-Beijing businessmen.

For many years, the broadcasters Asia Television Limited (ATV) and Television Broadcasts Limited (TVB) were the only stations with free-to-air licenses. In 2013, the government granted initial approval for new licenses to two companies headed by businessmen with strong connections to mainland China. One of the new stations, ViuTV, finally went on the air in April 2016. It is operated by HK Television Entertainment, a subsidiary of Pacific Century CyberWorks (PCCW), whose chairman, billionaire businessman Richard Li Tzar-kai, is a son of Li Ka-shing, the richest man in Hong Kong and a major investor in mainland China. In May 2016, the government formally granted a free-to-air license for the second new station, Fantastic Television. Its parent company, i-CABLE Communications, is owned by Wheelock and Company, which has substantial real estate investments in mainland China and is headed by Douglas Woo Chun-kuen, a member of the Chinese People's Political Consultative Conference (CPPCC). The CPPCC, a mainland government advisory body, has little real influence over policy but is used by the Chinese Communist Party to co-opt powerful members of society. Fantastic Television is required to launch a Chinese-language channel by June 2017 and an English-language channel by June 2018.

Phoenix Hong Kong Television, a subsidiary of Phoenix Satellite Television, submitted an application for a free-to-air license in May. Mainland China is Phoenix's largest market, and the company's founder and chief executive, Liu Changle, is a member of the CPPCC. Separately, Forever Top (Asia), a consortium of investors led by Hong Kong businessman and CPPCC member David Chiu Tat-cheong, also had an application pending.

Meanwhile, ATV went off the air in April 2016. It had struggled with severe financial problems for years, and in 2015 the government announced that it would not renew the station's license. A

prospective station that was denied approval for a license in 2013, the independent Hong Kong Television Network (HKTV), continued to press its case in 2016, arguing that its application was rejected for political reasons. In April, the Hong Kong Court of Appeal overturned a lower court's 2015 ruling that the government had to reconsider HKTV's application. A second application filed by the station in 2014 continued to experience delays, and it remained with the Communications Authority at the end of 2016.

Hong Kong has three licensed terrestrial radio networks: the privately owned broadcasters Hong Kong Commercial Broadcasting Company (CRHK) and Metro Broadcast Corporation and the government-funded Radio Television Hong Kong (RTHK). Citizens' Radio, a nonprofit prodemocracy station, has operated for years without a license, as the government has not approved its application; it has challenged the constitutionality of the licensing process. In recent years, Citizens' Radio has been subject to multiple raids by authorities for broadcasting without a license, including one in May 2016.

The licenses of CRHK and Metro Broadcast were renewed for 12 years in March 2016, but a government spokesman said the two broadcasters had agreed to review and revise their company guidelines related to impartiality in factual programming, as recommended by the Communications Authority. Critics expressed concern that the conditions surrounding the renewals could lead to self-censorship.

There are no legal restrictions on who may become a journalist or practice journalism in Hong Kong. The HKJA is an independent nonprofit organization that works to promote press freedom and journalistic integrity in Hong Kong. The organization regularly exercises its rights to advocate on behalf of journalists and challenge legislation, court rulings, and activities that undermine press freedom.

Political Environment: 20 / 40 (↓3)

Hong Kong's media outlets have become increasingly divided into two camps, with one supporting China's central government and Hong Kong's pro-Beijing political establishment, and a smaller faction championing Hong Kong's prodemocracy forces and generally opposing Beijing and its political allies in the territory. While such outlets do not always exhibit a pronounced or obvious bias, gradual shifts have been apparent, particularly in the wake of changes in ownership or management.

China's central government has direct and indirect links to a number of local news organizations. A handful of Hong Kong outlets are widely believed to be managed by the central government's Liaison Office, and their content has led them to be regarded as "mouthpieces" of the Chinese Communist Party. Separately, several of Hong Kong's major broadcasters and print media outlets, although not owned or controlled by Beijing outright, have owners who are members of the CPPCC or even the NPC, and many have significant business interests in mainland China. Editors and journalists at some of these outlets have been fired in recent years after publishing or broadcasting stories that reflect badly on China's leaders.

The *South China Morning Post's* decision to publish an interview with a detained mainland legal assistant in July 2016 confirmed fears that the paper's 2015 purchase by the mainland e-commerce company Alibaba would lead it to carry more propagandistic content. The interview with Zhao Wei, whom mainland authorities had held in secret detention since July 2015, appeared in an anonymously authored article, and although she had reportedly been released on bail earlier in the month, it was unclear how the paper gained access to her when her own lawyer and husband still did not know her whereabouts. The content of the interview, in which Zhao stated that she regretted her actions, was similar in style to the numerous coerced public confessions that have been orchestrated by Chinese authorities in recent years. Such statements are typically aired by

Chinese state media, but at least two other Hong Kong outlets – *Oriental Daily* and Phoenix TV – carried confessional interviews during 2016.

Online-only outlets do not enjoy the same access to government officials as traditional print and broadcast media. However, in May 2016, Legislative Council (LegCo) president Jasper Tsang Yok-sing announced that starting in September, online news media would be eligible for long-term media passes – a significant change from the long-held practice of granting them day passes only. Online media are still barred from attending government press conferences and receiving government press releases. In December, following a complaint from the HKJA, the Office of the Ombudsman called on the government to promptly review its blanket ban and devise relevant guidelines for granting online media access to press releases. Shortly thereafter, the Information Services Department (ISD) informed an online publication that it was looking into allowing online media to attend future government press conferences. However, the government has made no progress on these issues since the LegCo asked it to review its media policies in 2014.

Hong Kong's media remain relatively outspoken, featuring a high degree of professionalism and vigorous political debate. However, media self-censorship poses a serious threat to free expression in the territory. According to an HKJA survey released in March 2016, local journalists believe that self-censorship is common. The respondents gave an average rating of 2.9 on a 0-10 scale, with 0 indicating that it is very common and 10 not at all common. In one incident that drew attention during the year, ViuTV decided in October not to broadcast an episode of its reality show *Travel With Rivals* after the two guests, a former Hong Kong student leader and an exiled mainland dissident, spoke about Hong Kong independence at a Foreign Correspondents' Club of Japan event.

While most of Hong Kong's largest media outlets tend to be reserved in their coverage and criticism of the local establishment and the Chinese central government, at least one major media group, Next Media, produces online and print publications – including the popular *Apple Daily* – that offer irreverent takes on local and mainland affairs. In addition, many international media organizations have Hong Kong bureaus that provide their own perspectives on local and international affairs. A number of new independent or partisan media outlets have been launched in recent years, helping to maintain the diversity of Hong Kong's media environment.

The media sector's complexity was highlighted by coverage of the Panama Papers in 2016. While *Wen Wei Po*, *Ta Kung Pao*, and other Beijing-friendly outlets either completely ignored or played down local elites' ties to the Panamanian law firm Mossack Fonseca and its efforts to hide clients' wealth, some Hong Kong media such as *Ming Pao* and *South China Morning Post* covered the story in depth. However, *Ming Pao* fired chief editor Keung Kwok-yuen in April 2016, on the same day it ran a front-page exposé on the connections between Hong Kong politicians and businessmen and the Panama Papers. The move raised fears that the paper's management was caving to political pressure.

Reporters covering rallies or sensitive breaking news stories sometimes face assaults, particularly if their outlets are seen as hostile by protesters. Journalists from multiple media outlets reported being struck by protesters or police during violent antigovernment demonstrations and rioting that broke out on the first day of the Lunar New Year in February. Days later, police arrested a man for allegedly posting online messages that had called on people to attack journalists from TVB. In October, pro-Beijing protesters attacked a journalist reporting on their demonstration and took the memory card from his camera. Another reporter claimed he was assaulted during an argument in August with a localist leader who opposes mainland influence in Hong Kong.

Two *Ming Pao* journalists were reportedly beaten at an anniversary dinner for the Alliance in Support of Our Police Force as they attempted to ask alliance convener and LegCo candidate

Leticia Lee See-yin, who was giving away cash prizes, whether she was violating campaign rules. At year's end, police had yet to charge anyone with the assault.

Hong Kong journalists also face restrictions and intimidation when covering events on the mainland, limiting their ability to provide national news to the local population. Chinese authorities require journalists to obtain temporary press cards from the Liaison Office in Hong Kong prior to each reporting visit to the mainland, and to obtain the prior consent of interviewees. Even with accreditation, journalists from the territory have repeatedly been subjected to surveillance, threats, beatings, and occasional jailing when reporting on the mainland.

In July 2016, a court in the mainland city of Shenzhen sentenced two Hong Kong journalists to prison for running an illegal business. The journalists, who produced two political affairs magazines, had been detained in Shenzhen in 2014 for selling their publications on the mainland. Publisher Wang Jianmin was sentenced to five years and three months in prison, and reporter Guo Zhongxiao received a sentence of two years and three months. Guo, having been credited with time served, was released in August. In September, five Hong Kong journalists covering protests in Wukan, China, were temporarily detained by police, and three reported being beaten while in custody.

Five Hong Kong residents associated with local publisher Mighty Current Media, which specializes in thinly sourced books about the private lives of top Chinese government officials, disappeared in late 2015 and were confirmed to be in the custody of mainland Chinese authorities in early 2016. Indications that one of the booksellers was abducted from Thailand and another was kidnapped in Hong Kong itself had a chilling effect on local publishers and booksellers. By the end of 2016, four of the five booksellers had ostensibly been freed, though they reportedly faced ongoing surveillance and intimidation by mainland authorities. Lam Wing-kee, a Mighty Current employee who was arrested in October 2015 while traveling to the mainland, gave a detailed account of his detention upon his return to Hong Kong. He claimed that Mighty Current editor Lee Bo confided to him that he had indeed been abducted from Hong Kong by Chinese agents; Lee had publicly denied the claim, but was reluctant to speak openly about his disappearance. Mighty Current co-owner Gui Minhui, who went missing in October 2015 in Thailand, was still in custody at the end of 2016.

Economic Environment: 9 / 30

Dozens of daily newspapers are published in Chinese and English, most of them privately owned. In addition to local commercial broadcasters, Hong Kong's residents have access to satellite television and international radio broadcasts from services including the British Broadcasting Corporation (BBC). There are no official restrictions on internet access in Hong Kong, and the territory has one of the highest usage rates in Asia, with about 87 percent of the population accessing the medium as of 2016.

Radio Television Hong Kong (RTHK) operates as an independent department in the government and earns high public-approval ratings for its critical coverage of the authorities. However, since the government issued a new charter in 2011 that vowed to promote China's official "one country, two systems" policy toward Hong Kong, there have been concerns about mounting political pressure on RTHK's editorial independence.

Media ownership in Hong Kong is not entirely transparent. It is widely believed that *Ta Kung Pao* and *Wen Wei Po* – along with a few bookstores, publishing houses, and magazines – are controlled by the central government's Liaison Office. However, none of the entities nor the Liaison Office publicize their relationships. The two newspapers announced in February 2016 that they would merge, sharing editorial and technical resources as parts of a single new media group. The move

was generally perceived as a cost-cutting measure intended to offset declining revenues and increase competitiveness.

Hong Kong has very few restrictions on the means of news production and distribution. The territory's robust printing industry is represented by the Hong Kong Printers Association (HKPA), one of the oldest trade organizations in Hong Kong, which claims a membership of some 400 local printers, publishing houses, and purveyors of printing machines and materials. In recent years, protesters and masked assailants have interfered with the distribution of *Apple Daily*, and the outspoken paper's Hong Kong and Taiwan websites suffered crippling cyberattacks in 2014, though such disruptions remain rare.

A string of bookstore closures in 2016 were widely attributed to a chilling effect from the five Hong Kong booksellers' detention by mainland authorities. It was reported in March that the Hong Kong Airport Authority had decided to cut back retail bookstore space at Hong Kong International Airport. The Singaporean bookstore chain Page One – which had offered controversial books and magazines about China's central government before pulling such titles in January – closed all six of its airport locations, and the French bookseller Relay lost half of its 10 stores. However, a Chinese-owned chain, Chung Hwa, gained five stores at the airport. Driven in part by high rental costs and stiff competition from online booksellers, Page One closed the last of its Hong Kong bookstores in November. Separately, 1908 Books, a bookstore that specialized in publications that were banned on the mainland, abruptly shut down in February with no explanation.

While the overall media market in Hong Kong is strong – the city enjoys one of the world's highest per capita advertising expenditure rates – many local news organizations struggle to stay afloat. Some outlets known for their criticism of the Chinese central government have reported difficulties in attracting advertisers in recent years due to fears among private business owners that an association with independent media would damage their economic interests on the mainland.

Citing a difficult market, *South China Morning Post* announced in September 2016 that it would end publication of *HK Magazine*, a weekly English-language lifestyle magazine that had covered social issues and entertainment since 1991. Similarly, the Oriental Press Group gave the "deteriorating business environment in Hong Kong" as its reason for closing its Chinese-language newspaper, the *Sun*, in April.

Some newer ventures enjoyed success in 2016. The nonprofit online newspaper *Hong Kong Free Press* announced on its one-year anniversary in June that it had already attracted over 3.5 million unique visitors and published more than 4,400 articles, subsisting on donations and augmenting its small staff with volunteers. The Chinese-language internet news site Initium, which also launched in 2015, was receiving 3 million unique visitors per month by August 2016 and had tapped enough venture capital investment to support some 70 staff from Hong Kong and abroad. FactWire, a nonprofit Chinese- and English-language investigative news agency founded in August 2015 with crowdfunding resources, broke a major story in July 2016 about a secret recall of faulty subway trains in Singapore that were made by a mainland China manufacturer that also produces trains for Hong Kong's metro system.

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