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Freedom in the World 2012 - Hong Kong

2012 Scores

Status: Partly Free

Freedom Rating: 3.5

Civil Liberties: 2

Political Rights: 5

Overview

Hong Kong experienced a series of protests in 2011 due to growing public frustration over soaring property prices, a widening income gap, and limited democratic rights. As in the previous year, the authorities' response indicated a reduced respect for freedom of assembly. In August, during a visit by Chinese vice premier Li Keqiang, the government took unprecedented measures to limit reporters' ability to cover the visit. The well-financed pro-Beijing political camp swept district council elections held in November 2011, amid allegations of vote rigging and division within the prodemocracy camp over recent electoral reforms.

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 After China took control, it temporarily suspended the Legco and installed a provisional legislature that repealed or tightened several civil liberties laws during its 10-month tenure.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 antisubversion 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. Tsang won a new term as chief executive in 2007, 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 on constitutional changes.

In November 2009, the government published a consultation document on draft electoral reforms that would ostensibly serve as a transitional arrangement until the adoption of universal suffrage. Following months of public debate and closed-door negotiations, the Legco approved a compromise version of 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 for largely preserving the semidemocratic status quo and providing no guarantees of future universal suffrage.

In 2011, a string of demonstrations indicated public frustration over soaring property prices, a growing income gap, and slowly evolving restrictions on democratic rights. Continuing a pattern from the previous year, police adopted a more confrontational approach in dealing with protesters and journalists, especially during the official visit of Chinese vice premier Li Keqiang in August. During the second half of the year, attention turned toward chief executive and Legco elections scheduled for 2012. In November, Leung Chun-ying, a member of a mainland government advisory body, and Henry Tang, a high-ranking Hong Kong civil servant with ties to both the Beijing-friendly business sector and the Chinese Communist Party, announced that they would run for chief executive in March. Local media reported that Tang was the Chinese Communist Party's preferred candidate. However, by year's end, Tang's popularity had fallen after several gaffes and scandals, causing observers to speculate that the central government might switch its backing to Leung.

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, who serves a five-year term, 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 Legco consists of 30 directly elected members and 30 members chosen by the functional constituency voters. All 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 Civic Party, Democratic 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 NPC ruled in 2007 that universal suffrage might be adopted in 2017 for the chief executive election and 2020 for the Legco. The issue's omission from the 2010 electoral reforms heightened fears that the transition would be pushed further into the future. Under the 2010 changes, the election committee for the chief executive will expand from 800 to 1,200 members in 2012, but will otherwise retain its existing composition. 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.

The reforms increased the importance of the district council elections held in November 2011, prompting a record voter turnout rate of 41 percent. Candidates from the pro-Beijing camp won a large majority of contested seats, amid reports of increased funding from Beijing-friendly businessmen, allegations of vote rigging, and a growing split within the prodemocracy camp over the compromise behind the 2010 reform package. Separately, the government announced in September that it would reduce the district councils' appointed seats in phases, with full abolition intended by 2020, reportedly backtracking from an earlier promise to eliminate them sooner. In the November 2011 elections, the total number of appointed seats was reduced from 102 to 68, while elected seats increased from 405 to 412.

Hong Kong is generally regarded as having low rates of corruption, though business interests have considerable influence on the Legco. In December 2011, the territory's Independent Commission Against Corruption (ICAC) detained at least 22 individuals after prodemocracy legislators reported instances of voters registering under nonexistent addresses. By year's end, six people had been charged with vote rigging, and the others remained under investigation. Hong Kong was ranked 12 out of 183 polities surveyed in Transparency International's 2011 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. Foreign media operate without interference. Nonetheless, Beijing's growing influence has led to self-censorship. This stems in part from the close relationship between Hong Kong media owners and central authorities; at least 10 such owners sit on the CPPCC. Of the respondents to a University of Hong Kong survey released in April 2011, a record high 54 percent said the media practice self-censorship. In September, two news executives at Asia Television (ATV) resigned after the station erroneously announced the death of former Chinese leader Jiang Zemin. The Broadcasting Authority fined the station HK\$300,000 (US\$38,600) in December and revealed that a senior executive had pressured staff to air the unverified news. In another set of incidents, Beijing-friendly media vigorously attacked two

professors, rival media owner Jimmy Lai, the local head of the Roman Catholic Church, and a talk show host – all of whom had been critical of the central government, supported the prodemocracy camp, or granted interviews to independent Chinese news outlets.

Several cases emerged in 2011 of the Hong Kong authorities obstructing journalists' ability to cover certain events. In July, 19 journalists were pepper-sprayed by police during a demonstration marking the anniversary of the 1997 handover. Police also detained a citizen journalist and an intern photographer, the latter for "obstructing a public place"; the charges against her were dropped in September after she filed a lawsuit for unlawful arrest and detention. In August, during the visit by Chinese vice premier Li Keqiang, authorities kept journalists far from Li, granted them permission to cover fewer than half of the events he attended, and reportedly barred several cameramen from filming. After the Legco moved to a new complex in July, reporters were required to remain in a designated press area, limiting their ability to report on proceedings and interview lawmakers.

The selection in September 2011 of a former government official as director of broadcasting at the state-owned Radio Television Hong Kong (RTHK) – the first time since the 1930s that a non-media professional was appointed to the post – heightened concerns over RTHK's editorial independence. In November, two longtime hosts of RTHK current affairs programs who were known for their criticism of the government were told that their contracts would not be renewed in 2012.

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 remain free to practice and hold occasional demonstrations, though government pressure on them to remove banners from public places reportedly increased in 2011.

University professors can write and lecture freely, and political debate on campuses is lively. However, students who protested Li Keqiang's visit to the University of Hong Kong in August 2011 were manhandled by the police, and one was briefly detained.

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, in recent years, police have become more confrontational with protesters. When a group of 40 demonstrators gathered in front of the central government's liaison office in February 2011, responding to online calls for a Tunisian-style "Jasmine Revolution" in China, they were outnumbered by 100 police officers; the police attempted to confiscate banners, claiming they were "blocking the view" of officers. The annual protest march held on July 1 to mark the territory's handover drew the largest crowd since 2004, with estimates ranging from 50,000 to 200,000. In the early hours of the following morning, police briefly detained over 200 participants for "illegal assembly" and "obstructing public places." The director of a local human rights group was also detained while filming the police clearing the crowd. In August, during Li Keqiang's visit, police blocked a group of 100 protesters from approaching the new government headquarters, where Li was attending a ceremony, and attempted to confiscate a mock coffin that commemorated victims of the 1989 Tiananmen Square massacre.

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. The territory's first minimum-wage law took effect in May 2011.

The judiciary is independent, and the trial process is generally 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. In June 2011, the court departed from legal decisions made under British rule by adopting Beijing's more stringent guarantee of sovereign immunity, in a lawsuit involving a U.S. investment fund and the Congolese government. The court then asked the NPC to confirm its interpretation of the Basic Law, marking the first such referral by the Hong Kong judiciary. The NPC Standing Committee approved the decision in August.

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 200,000 foreign household workers remain 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 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. In September 2011, the High Court struck down a law banning foreign household workers from applying for permanent residency after it was challenged as discriminatory by a Filipina maid who had lived in the territory for more than 25 years. Other types of foreign workers were allowed to apply for permanent residency after seven years.

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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 2011, the authorities denied visas to prominent exiled democracy activists Wang Dan and Wu'er Kaixi, who had planned to attend the funeral of a Hong Kong democrat, without explanation. In a rebuke to such practices, the High Court ruled in March that the Immigration Department was incorrect in its 2010 decision to refuse visas to technical staff of Shen Yun Performing Arts, a U.S.-based dance company whose performances include portrayals of China's persecution of Falun Gong.

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, they continue to face discrimination in employment opportunities, salary, inheritance, and welfare. Only 11 out of the 60 Legco members are women, and all 21 judges on the Court of Final Appeals are men. Despite robust efforts by the government, Hong Kong remains a point of transit and destination for persons trafficked for sexual exploitation or forced labor.

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