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Country Report on Human Rights Practices 2016 - China (includes Tibet, Hong Kong, and Macau) - Hong Kong

EXECUTIVE SUMMARY

Hong Kong is a special administrative region (SAR) of the People's Republic of China (PRC). The 1984 Sino-British Joint Declaration on the Question of Hong Kong and the SAR's charter, the Basic Law of the SAR (also known as the Basic Law), specify that the SAR will enjoy a high degree of autonomy under the "one country, two systems" framework except in matters of defense and foreign affairs. In September, Hong Kong residents elected the 70 representatives who comprise the SAR's Legislative Council (LegCo). In accordance with the Basic Law, voters directly elected 40 representatives, while limited franchise functional constituencies that generally supported the government in Beijing elected the remaining 30.

Civilian authorities maintained effective control over the security forces.

The most important human rights problem reported was the central government's encroachment on Hong Kong's autonomy. The National People's Congress Standing Committee (NPCSC) on November 7 issued an unnecessary and unsolicited interpretation of the Basic Law that preempted the ability of Hong Kong's independent judiciary to rule on the matter. It marked the first time it had issued such an interpretation while a Hong Kong judge was deliberating the case in question and the second time it had done so in the absence of a request from Hong Kong authorities. As a result, Hong Kong's courts subsequently disqualified two opposition legislators-elect, who used their oath-swearing ceremony as an occasion to make proindependence gestures, and on December 2, the Hong Kong government filed a similar legal challenge to the legitimacy of four additional opposition legislators over the manner in which they took their oaths of office. Media outlets and local observers raised concerns that the government had attempted to curtail residents' right to run for office. Hong Kong residents also remain concerned by the breach of Hong Kong's autonomy that occurred in the late 2015 disappearances of five publishers of books critical of the Communist Party leadership and the continued lack of transparency regarding their cases. Although the 2016 elections were largely conducted in a free and fair manner, Hong Kong's system of government limits the ability of Hong Kong voters to choose their government.

Other human rights problems included trafficking in persons, and societal prejudice against certain ethnic minorities and the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community.

The government took steps to prosecute and punish officials who committed abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or unlawful killings; nor were there reports of such killings by narcotics traffickers or other criminal groups.

b. Disappearance

Five men working in Hong Kong's publishing industry disappeared between October and December 2015 from Thailand, Hong Kong, and mainland China. In addition to being Hong Kong residents, one of the men was a Swedish national and another was a UK national. Media coverage of these cases noted the men worked for Mighty Current, a publishing house, and the affiliated Causeway Bay Bookstore, which were known for selling books critical of the Chinese Communist Party and its leaders. Credible reports gave rise to widespread suspicions that PRC security officials were involved in their disappearances.

Mainland authorities eventually allowed four of the five booksellers to return to Hong Kong between March and July, while continuing to detain Gui Minhai, a Swedish national, on the mainland at year's end in the absence of any charges or judicial process. According to local media reports, mainland security agencies continued to exert pressure on the four booksellers whom they had allowed to return to Hong Kong through periodic questioning, ongoing surveillance, escorting by security agents, and threats of retaliation against mainland-based family members. Causeway Bay Books manager Lam Wing-kee returned to Hong Kong in July and held a press conference at the LegCo compound in which he disclosed details about his abduction and subsequent eight-month detention. Lam said several security agents took him into custody at the Hong Kong-Shenzhen border crossing and held him overnight. According to Lam's account, mainland authorities confiscated his identity documents and refused to answer his questions or explain why he was detained. The next day officials blindfolded and handcuffed Lam on central authorities' orders, following which Lam was transported by train from Shenzhen to Ningbo. Upon arrival in Ningbo, security officials forced Lam to sign a document promising to not contact his family or seek legal counsel, he told the press. He was told he was being held under "residential surveillance," a form of detention frequently used by PRC security agents to hold incommunicado activists and others suspected of political crimes. Lam said he was held under constant surveillance in a small space, and told the press he was only released to return to the SAR in order to collect additional materials for use in testifying against another bookseller.

The Hong Kong Government said it took steps to investigate the booksellers' abductions and detentions, including engaging central government authorities from the security and justice ministries to improve the notification mechanism governing cross-border cases. The Chief Executive, Secretary for Justice, Police Commissioner, and Central Government Liaison Officials, in addition to other key officers, spoke publicly following UK national Lee Bo's disappearance. They all stated unequivocally that mainland security officials had no legal ability to enforce mainland laws in Hong Kong. Top officials, including the Chief Executive, said if mainland officials had acted in Hong Kong, it would be a violation of the Basic Law.

Despite the Hong Kong authorities' efforts to pursue the case, police eventually dropped their investigation following the Lee family's cancellation of its missing person report and the family's request for closure of the investigation.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Basic Law prohibits torture and other forms of abuse, and there were no reports that government officials employed them.

There were some reports of the use of excessive force by police officers. In a six-month period last year, the police force's Complaints against Police Office reported 913 allegations of excessive use of force by police. Data on allegations of excessive use of force pending investigation and endorsement by the Independent Police Complaints Council (IPCC), assault by police officers on persons not in custody and in custody, and the results of those investigations were not available at year's end. There were no reports of death in custody due to excessive police force.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the Correctional Services Department (CSD) permitted visits by independent human rights observers, the media, and religious groups.

The government does not have separate detention facilities for migrants or asylum seekers. The Immigration Department maintains detention facilities in Ma Tau Kok and in Castle Peak Bay for those who have violated the SAR's immigration laws and/or those pending deportation from Hong Kong. Human rights activists voiced concern over the government's detention of asylum claimants at such immigration detention facilities, charging that the SAR's immigration laws require asylum claimants to be in violation of their immigration status before they can file an asylum claim. There are no private detention facilities in the SAR.

Physical Conditions: During the year the CSD managed 24 penal institutions (comprising minimum-, medium-, and maximum-security prisons; a psychiatric center; and training, detention, rehabilitation, and drug addiction treatment centers).

The CSD acknowledged overcrowding was a problem in certain types of penal institutions, such as remand (pretrial detention) facilities and maximum-security institutions. Transferred remand prisoners made complaints of prison guards treating them as convicted prisoners as well as of wait times of one week to make private telephone calls, and reported a decrease in attorney visits for prisoners relocated to some of the SAR's more remote prison locations. The CSD adopted a strategy of renovating existing institutions to increase space and modernize facilities.

The Coroner's Court, aided by a jury, conducted death inquests. Data on deaths of prisoners in CSD custody and inquest results had not been reported by year's end.

Administration: Judicial authorities investigated credible allegations of problematic conditions and documented the results in a publicly accessible manner. The government investigated and monitored prison and detention center conditions, and there was an external Office of the Ombudsman. The government kept adequate records of prisoners.

Independent Monitoring: The government permitted media outlets and human rights groups to conduct prison visits. Justices of the peace may make suggestions and comments on matters such as the physical environment of facilities, overcrowding, staff improvement, training and recreational programs and activities, and other matters affecting the welfare of inmates. Justices of the peace made over 200 unannounced visits to penal institutions in a six-month period last year.

Improvements: As of year's end, there was no available information on improvements to prison or detention center conditions.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest or detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

The Hong Kong Police Force maintains internal security and reports to the Security Bureau. The People's Liberation Army (PLA) is responsible for external security. The Immigration Department controls the entry of persons into and out of the SAR as well as the documentation of local residents. Civilian authorities maintained effective control over the police force, and the government had effective mechanisms to investigate and punish abuse and corruption. The 2015 reported involvement of mainland security forces in the disappearances of five Hong Kong book publishers; however, raised concerns about the activities of mainland security forces in Hong Kong throughout the year. For further information on the publishers' cases, see section 1.b.

International and local media reported that mainland PRC operatives in Hong Kong surveilled some prodemocracy movement figures, political activists, lawyers, academics, businesspersons, and religious leaders that have expressed criticism of the central government's policies. In January, Guangdong province security agents reportedly visited 65-year-old veteran publisher Lau Tat-man in Hong Kong on three occasions over the course of one month to interrogate him about the five booksellers who were abducted from various locations and detained in the mainland. In July bookseller Lam Wing-kee and prodemocracy legislator James To alleged that mainland agents had surveilled Lam after he returned to Hong Kong and disclosed the details of his abduction to the press. In response to concerns for his safety, Hong Kong police later placed Lam under police protection. There were no reports of impunity involving the security forces during the year.

Human rights activists and some legislators expressed concern that the CE appointed all Independent Police Complaints Committee members and that the IPCC's lack of power to conduct independent investigations

limited its oversight capacity. The IPCC cannot compel officers to participate in its investigations, and the media reported cases of police officers declining to cooperate fully.

Arrest Procedures and Treatment of Detainees

Suspects generally were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. They must be charged within 48 hours or released, and the government respected this right. Interviews of suspects are required to be videotaped. The law provides accused persons with the right to a prompt judicial determination, and authorities respected this right effectively.

Detainees were generally informed promptly of charges against them. There was a functioning bail system, and authorities allowed detainees access to a lawyer of their choice. Suspects were not detained incommunicado or held under house arrest.

Arbitrary Arrest: The Department of Justice maintained political considerations did not factor into its decision to charge several activists with crimes related to the 2014 protests; the Hong Kong judiciary heard these cases from May to August. Pro-democracy activists and participants in the fall 2014 prodemocracy protests claimed they were subject to incidents of politically motivated arbitrary arrest.

In May, Joshua Wong, the convener of the prodemocracy student activist group Scholarism, and Hong Kong Federation of Students (HKFS) secretary-general Nathan Law, along with two other prodemocracy activists, were acquitted on charges related to obstructing police officers during a June 2014 protest against the release of the State Council's White Paper on Hong Kong.

In July, Wong and HKFS former secretary-general Alex Chow were found guilty on one charge of participating in an illegal assembly related to the start of the 2014 Occupy Central protests, while Law was found guilty of inciting an illegal assembly. In August, Wong and Law were sentenced to perform 80 and 120 hours of community service respectively, while Chow was given a suspended sentence of three weeks imprisonment. In delivering the verdicts, district court Judge June Cheung noted: "The court believes the three defendants are expressing their views and demands genuinely out of their political beliefs or their concern for society. Their aim and motive is not for their own interest or to hurt other people."

The Department of Justice in September requested the court review the sentences, with the prosecution alleging the sentences were too lenient. The magistrate reviewed and upheld the sentences, which fell well within sentencing guidelines.

Many experts assessed the police use of force during the protests in the fall of 2014 as generally professional and appropriate. Some prodemocracy activists, nongovernmental organization (NGO) observers, and journalists expressed concerns about certain police actions, and the court cases reviewing police use of force continued.

The District Court on December 8 announced it would hand down a ruling in February 2017 on an assault case brought by Ken Tsang, a prodemocracy activist. Video footage taken during October 2014 protests showed plainclothes police officers abusing Tsang. Seven police officers were subsequently suspended, arrested, and charged with the crime of "wounding or striking with intent to do grievous bodily harm." Prosecutors separately charged Tsang with assaulting and obstructing police officers, which carries a maximum possible sentence of two years' imprisonment. The court finished hearing the case in May, and Tsang was found guilty of assaulting a police officer and resisting arrest; he was sentenced to five weeks in prison.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Persons arrested or detained on criminal or other grounds are entitled to challenge in court the legal basis or arbitrary nature of their detention and obtain prompt release and compensation if found to have been unlawfully detained.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the SAR government generally respected judicial independence. The judiciary provided citizens with a fair and efficient judicial process.

Trial Procedures

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. Trials were by jury except at the magistrate and district court level. An attorney is provided at the public's expense if defendants cannot afford counsel. Defendants had adequate time and facilities to prepare a defense. Defendants have the right to be informed promptly and in detail of the charges against them and the right to a public trial without undue delay, and defendants could confront and question witnesses testifying against them and present witnesses to testify on their behalf. Defendants and their attorneys had access to government-held

evidence relevant to their cases. Defendants have the right of appeal and the right not to be compelled to testify or confess guilt, and have the right to be present at their trial.

Defendants enjoy a presumption of innocence except in official corruption cases. Under the law a current or former government official who maintained a standard of living above that commensurate with his or her official income, or who controls monies or property disproportionate to his official income, is guilty of an offense unless he can satisfactorily explain the discrepancy. The courts upheld this ordinance. The government conducted court proceedings in either Chinese or English, the SAR's two official languages.

Hong Kong's unique, common law judicial system operates within the PRC; the SAR's courts are charged with interpreting those provisions of the Basic Law that address matters within the limits of the SAR's autonomy. The courts also interpret provisions of the Basic Law that touch on central government responsibilities or on the relationship between the central authorities and the SAR. Before making its final judgments on these matters, which are not subject to appeal, the Court of Final Appeal may seek an interpretation of the relevant provisions from the Standing Committee of the PRC's National People's Congress (NPCSC). The Basic Law requires that courts follow the NPCSC's interpretations where cases intersect with central government jurisdiction, although judgments previously rendered are not affected. On four occasions in the past and once in November this year, described below, the NPCSC issued interpretations of the Basic Law.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary for civil matters and access to a court to bring lawsuits seeking damages for, or the cessation of, human rights violations. The SAR's courts continued to exercise a high degree of autonomy under the Basic Law, but many Hong Kong residents questioned the durability of this autonomy in the wake of the November NPCSC interpretation of the Basic Law that interrupted the judicial process in Hong Kong. Activists and other observers expressed concerns that the SAR government and central government had encroached on the judiciary's independence.

The Basic Law's Article 158 grants the NPCSC the power to interpret the Basic Law. On November 7, the NPCSC issued an interpretation on the Basic Law's language requiring all government officials to take an oath in order to enter office. The NPCSC issued its interpretation while the Court of First Instance was considering the Hong Kong Government's judicial review petitions against two proindependence legislators-elect. On November 9, Court of First Instance Justice Thomas Au ruled in favor of the government to disqualify the legislators-elect, noting he would have reached the same decision even if the NPCSC had not issued its interpretation. Legal scholars, the Hong Kong Bar Association, and the Law Society characterized the interpretation as unnecessary. They also voiced concern that the issuance of the interpretation might damage perceptions about the SAR's independent judiciary and the reputation of its courts, as well as the SAR's overall autonomy. The November 7 interpretation marked the first time the NPCSC had rendered an interpretation of the Basic Law while the matter in question was pending a judge's ruling and the second time it had done so in the absence of a request from Hong Kong authorities, which some legal experts viewed as inconsistent with the judicial reference process outlined in Article 158 of the Basic Law. Following issuance of the interpretation, hundreds of lawyers dressed in black and staged a silent protest against the NPCSC's failure to respect the autonomy of Hong Kong's judiciary.

Under Article 158, as originally enacted in 1997, the NPCSC's consults its Committee for the Basic Law, composed of six mainland and six Hong Kong members, before it issues an interpretation of the Basic Law. The Chief Executive, the LegCo president, and the chief justice nominate the Hong Kong members. Human rights and lawyers' organizations expressed concern that the lack of Hong Kong representation on the NPCSC (among the 175 current members, only one is a Hong Kong resident) and the limited power of the Basic Law Committee, could be used to limit the independence of the judiciary or degrade the Hong Kong courts' authority, as the NPCSC's decisions can supersede the Court of Final Appeal's power of final adjudication.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law provides for freedom of speech and press, and the government generally respected these rights. An independent press, an effective judiciary, an unfettered internet, and a generally supportive government combined to promote freedom of speech and of the press on most matters. During the year, however, media groups complained about what they viewed as increasing challenges in this area. (For further detail, please see Press and Media Freedoms section below).

Freedom of Speech and Expression: There were no legal restrictions on the ability of individuals to criticize the government publicly or privately or to discuss matters of general public interest without reprisal. However, free speech advocates and educators voiced concern in August following the Education Secretary's public comments warning teachers who "advocate" Hong Kong independence on campus must "bear responsibility and consequences," including the loss of their teaching licenses. Subsequently, in September Chief Executive Leung said schools in Hong Kong had "no space to discuss independence." Educators, media outlets, and free speech advocates also voiced concern over comments made by Central Government officials based at Hong Kong's Central Government Liaison Office (CGLO). CGLO officials suggested publicly that discussion of Hong Kong's independence amounted to "a violation of laws in Hong Kong" and suggested it could be considered sedition and/or treason under Hong Kong's Crimes Ordinance if such speech was deemed to occur in the context of a "large-scale discussion in the hopes of gathering a large group to act together."

The Education Bureau made no formal changes to its policy following the Chief Executive's and Education Secretary's public comments. Members of the Professional Teachers Union reported there had been no changes to the guidance about how the union certifies its teachers.

Prospective candidates for public office reported Hong Kong's Electoral Affairs Commission implemented changes to its established procedures for filing legislative candidacy that limited free speech in the political arena. On July 12, the Electoral Affairs Commission instituted a new requirement that all LegCo candidates sign a pledge stating that Hong Kong is an "inalienable part" of China in order to run for office. Despite signing the required form and fulfilling other eligibility requirements, an Electoral Affairs Commission officer disqualified Hong Kong Indigenous convener Edward Leung and several other candidates for standing for election. The Electoral Affairs Commission said Leung's disqualification was due to Leung's proindependence comments earlier in the year, which the returning officer said was evidence that Leung was insincere in his loyalty pledge to the SAR. Leung's supporters voiced concern the new procedures infringed on freedom of speech and the right of Hong Kongers to stand for public office, rights guaranteed in the Basic Law.

On July 20, Zhang Xiaoming, the director of the CGLO, warned the Hong Kong government against allowing the LegCo elections in September to be used to promote "proindependence remarks and activities." Zhang suggested that allowing free speech on the matter violated the Basic Law and warned of "calamity" if proindependence views continued to spread in Hong Kong. While the CGLO Director has no legal standing, many local observers and free speech advocates said his public comments had a chilling effect on Hong Kong society.

Hong Kong residents also expressed concern about the potential implications of the November 7 NPCSC interpretation of Basic Law Article 104 on the SAR's free speech protections. The interpretation barred legislators-elect from taking office if they refused to take the oath, altered the wording of the oath, or failed to demonstrate sufficient "sincerity" or "solemnity" when taking the oath. Some observers and legal experts voiced concern that the NPCSC's interpretation could subject sitting legislators to legal sanctions if they "engage in conduct in breach of the oath" at any point in their respective terms. Prodemocracy advocates, particularly those who identify as "localists", expressed fears that the interpretation created a mechanism for the central government to exclude from office, or potentially evict from office, those who espoused or were suspected of harboring political views that the central government found objectionable. The interpretation stated that the requirements and preconditions contained within it applied to legislators-elect and all other public officers and candidates for public office referred to in Article 104. Some legal experts downplayed these concerns, noting the Basic Law's Article 77 protects legislators from legal recourse stemming from any speeches they deliver in the normal course of their representative duties, while other legal experts have noted that the central government's powers over Hong Kong are not subject to any legal supervision, which manifests in the NPCSC's continued assertion of a power to interpret the Basic Law at its discretion.

Many in the media and civil society organizations further alleged the central government exerted indirect pressure on media organizations to mute criticism of its policy priorities in the SAR. They also voiced concern about increasing self-censorship among the local and regional press corps.

Press and Media Freedoms: In July the Hong Kong Journalists Association in its yearly report on press freedoms in Hong Kong said its Press Freedom Index indicators declined for the second straight year, from 38.9 to 38.2 points for journalists and from 48.4 to 47.4 for the general public. Nearly 85 percent of surveyed Hong Kong journalists thought that press freedom had worsened over the previous year. The report, which this

year focused on increasing mainland influence on Hong Kong media outlets, cited as challenges continuing violence against journalists by police and protestors related to media coverage of local riots, lack of government transparency, the government's "questionable" policy on granting of television and radio licenses, and refusal to accredit online and student reporters (online reporters have since been granted accreditation). The Association called on the government to undertake a number of actions, including to "take a strong approach to protect the one country, two systems principle given the threats to Hong Kong's high degree of autonomy as promised in the Basic Law."

Violence and Harassment: No violent attacks on media-related personalities took place during the year.

Censorship or Content Restrictions: Reports of media self-censorship continued during the year. Most media outlets were owned by companies with business interests on the mainland, which led to claims that they were vulnerable to self-censorship, with editors deferring to the perceived concerns of publishers regarding their business interests. According to the Committee to Protect Journalists, more than half of Hong Kong's media owners held official roles in the PRC political system, either as delegates to the NPC or to the Chinese People's Political Consultative Conference.

Mainland companies and those with significant business dealings on the mainland reportedly boycotted advertising in the Next Media Group publications, known for its criticisms of the central government and the SAR government. Next Media Group's popular newspaper *Apple Daily* said it took special measures to circumvent regular hacking attacks, including the use of sophisticated email security software and asking its lawyers to use couriers instead of email. A private cybersecurity company that works with Next Media Group told Reuters in late 2015 that it had connected denial of service attacks against *Apple Daily* with professional cyber spying attacks that bore the hallmarks of a common source and suggested the hacker's apparent objectives matched the central government's.

Libel/Slander Laws: There were no reports the government or individual public figures used laws against libel, slander, defamation, or blasphemy to restrict public discussion.

National Security: There were no reports of restrictive media distribution to protect national security. Following the November 7 NPCSC interpretation of the Basic Law, Chief Executive Leung and some presumptive Chief Executive candidates indicated that the government would again consider national security legislation. No such legislation was under consideration by LegCo at year's end.

Internet Freedom

There were no government restrictions on access to the internet, although prodemocracy activists, legislators, lawyers, religious leaders, and protesters claimed central government authorities closely monitored their e-mails and internet use. The internet was widely available and used extensively.

There were reports of politically motivated cyberattacks against private persons and organizations.

In late 2015 the head of Hong Kong's Democratic Party said his party had repeatedly faced sophisticated cyberattacks on its website and against members' personal email accounts that appeared to originate from the central government. Before district council elections in November 2015, Reuters found that hackers had broken into at least 20 Gmail accounts belonging to the Democratic Party. Private cybersecurity company FireEye said attacks launched on Dropbox, in which specific victims were trapped into downloading infected files, targeted "precisely those whose networks Beijing would seek to monitor." The company said half its customers in Hong Kong, or two and a half times the global average, were attacked by government and professional hackers in the first half of 2015.

Academic Freedom and Cultural Events

There were some restrictions on academic freedom and cultural events. Some scholars suggested Hong Kong-based academics practiced self-censorship in their China-related work to preserve good relations and research and lecturing opportunities in the mainland.

In July, Hong Kong's Tiananmen Museum closed after two years of operation. The museum had been the only museum on PRC soil commemorating the 1989 Tiananmen Square massacre. According to CNN and Time, the Hong Kong Alliance, a prodemocracy group that operated the museum, said the closure was due to pressure from the owners' committee of the building, which made it difficult for the museum to operate by restricting visitor numbers, filing a lawsuit disputing the usage of the space as a museum, and forcing visitors to provide their names and personal information--a requirement that discouraged visitors from the mainland. The museum operators also cited high rent and other fundraising challenges, but said they kept the museum's exhibits and hoped to move to a new and bigger location in the future.

In August and September, the Education Secretary and the Chief Executive warned educators against the discussion of independence in schools. In September, Chief Executive Leung said schools in Hong Kong had “no space to discuss independence.” However, at the year’s end, the Education Bureau had made no policy changes in response to their comments, and members of the Professional Teachers’ Union reported their union had made no changes to the regulations governing the accreditation of teachers and the issuance of teaching credentials. For further information, please see section 2.a.

On October 1, the national holiday marking the PRC’s founding in 1949, students at eight universities in Hong Kong hung banners in support of Hong Kong independence. Media reports indicated that school officials promptly removed the banners.

Hong Kong-based international NGOs voiced concern about pro-Beijing media outlets’ sustained criticism of their activities, which the newspapers characterized as interference by foreign forces. NGO staff members reported that these efforts to discredit their work in the SAR made it difficult for the groups to continue their existing partnerships with academic institutions and their public outreach. NGOs also voiced concern about the mainland’s Foreign NGO Management Law, slated to enter into effect on January 1, 2017, noting the law would impose onerous restrictions on the ability to operate and implement social services delivery, advocacy work, and aid services. The law specifically defines Hong Kong-based organizations as covered by the law’s requirements. In April the New York-based broadcaster New Tang Dynasty Television (NTD-TV) leased the Heung Yee Kuk Grand Theater in Hong Kong to hold a dance competition. NTD-TV received a notice from the theater in May stating that the Hong Kong Government requested the theater for the same date for use in association with the September Hong Kong LegCo election. The theater canceled NTD-TV’s lease in June and offered a full refund for the contract, as well as assistance in identifying an alternative venue. NTD-TV then arranged to hold the competition at another venue, the government-subsidized Macpherson Stadium, in August, but the second venue also later revoked permission to use its premises. NTD-TV ultimately relocated the competition to Taiwan. NTD-TV is associated with the Falun Gong spiritual movement, which is banned in mainland China, but not in Hong Kong. Falun Gong advocates allege that the Hong Kong Government and the CGLO pressured these venues not to allow the dance competition to be held on their premises because of NTD-TV’s association with Falun Gong.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right. The police routinely issued the required “letter of no objection” for public meetings and demonstrations—including those critical of the SAR and central governments—and the overwhelming majority of protests occurred without serious incident. On June 4, tens of thousands of persons peacefully gathered without incident in Victoria Park to commemorate the 27th anniversary of the Tiananmen Square crackdown. The annual vigil and a smaller annual event in Macau were reportedly the only sanctioned events in China to commemorate the Tiananmen Square anniversary.

Figures vary for participation in the annual July 1 prodemocracy demonstration, held on the anniversary of the 1997 transfer of sovereignty over Hong Kong to the PRC. Police estimated 19,300 protesters; an independent polling organization estimated 29,000, and organizers claimed 110,000. Participants voiced concern over the Mighty Current booksellers’ detentions, called for CE Leung to resign, supported a relaunch of Hong Kong’s electoral reform process aimed at extending universal suffrage for all residents to vote in elections for the Chief Executive, encouraged abolition of LegCo’s Functional Constituencies in favor of directly electing all legislators; and demanded democratic amendments to the Basic Law. Police deployed hundreds of officers, and did not interfere with the legally permitted rally.

Government statistics indicated police arrested 125 persons in connection with public order events in the first half of last year; statistics were not yet available for 2016.

Freedom of Association

The law provides for freedom of association, and the government generally respected it.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation and the government generally respected these rights, with some prominent exceptions.

Under the “one country, two systems” framework, the SAR continued to administer its own immigration and entry policies and make determinations regarding claims under the UN Convention against Torture (CAT) independently. Hong Kong is not a signatory to the 1951 UN Refugee Convention or the 1969 Protocol. As such, the SAR only accepts asylum claims on the basis of torture in a claimant’s home country. The most recently available government statistics indicated that there were over 11,000 nonrefoulement claims, including those based on claims under the CAT, pending Immigration Department processing. Applicants and activists continued to complain about the slow processing of claims and limited government subsidies available to applicants. Activists and refugee rights groups also voiced concerns about the very low rate of approved claims (0.6 percent for a recent 15 month period), suggesting the government’s bar for approving claims of torture was far higher than other developed jurisdictions.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and the International Organization for Migration as well as other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, or other persons of concern.

There continued to be claims that the Immigration Department refused entry to a small number of persons traveling to the SAR for political reasons that did not appear to contravene the law. The Immigration Department, as a matter of policy, declined to comment on individual cases. Activists, some legislators, and other observers contended that the refusals, usually of persons holding views critical of the central government, were made at the behest of PRC authorities. The Security Bureau maintained that the Immigration Department exchanged information with other immigration authorities, including on the mainland, but made its decisions independently.

Foreign Travel: Most residents easily obtained travel documents from the SAR government; however, central government authorities did not permit some human rights activists, student protesters, and prodemocracy legislators to visit mainland China. Some of the students who participated in the protest movement in the fall of 2014 alleged the central government security agencies surveilled the protests and blacklisted them.

The central government took steps to restrict the foreign travel of prominent prodemocracy leaders, according to civil society representatives. In October, Thai immigration authorities blocked democracy activist Joshua Wong from entering the country to speak at Bangkok’s Chulalongkorn University and detained him at the airport for 12 hours without explanation. Wong was to attend an event to commemorate the 40th anniversary of a massacre on the campus of Bangkok’s Thammasat University. Upon his return to Hong Kong, Wong told the press he believed Thai authorities were responding to pressure from the central government. A senior immigration official told a Thai newspaper that Wong was denied entry in response to a request from the PRC government. The Thai organizer who invited Wong to speak at the university also said Thai police had informed him that they had received a letter about Wong from PRC authorities.

Emigration and Repatriation: Government policy was to repatriate undocumented migrants who arrived from mainland China, and authorities did not consider them for refugee status.

The government did not recognize the Taiwan passport as valid for visa endorsement purposes, although convenient mechanisms existed for Taiwan passport holders to visit. As of 2013 most Taiwan visitors have been able to register online and stay for one month if they hold a mainland travel permit.

Protection of Refugees

Access to Asylum: The SAR has a policy of not granting asylum or refugee status and has no temporary protection policy. The government’s practice was to refer refugee and asylum claimants to a lawyer or to UNHCR. Persons wishing to file a claim cannot do so while they have legally entered the SAR, and must instead wait until they have overstayed the terms of their entry before they can file such a claim.

Refoulement: The government’s Unified Screening Mechanism, introduced last year, consolidated the processing of claims based on risk of return to persecution, torture, or cruel, inhuman, or degrading treatment or punishment. Claimants continued to receive publicly funded legal assistance, including translation services, as well as small living subsidies. The children of refugee claimants can usually attend Hong Kong’s public schools, if the Director of Immigration deems adjudication of a claim will take several months. The number of substantiated cases of torture and nonrefoulement is less than one percent of the total determinations made since 2009. According to the HKSAR Immigration Department, between the commencement of the enhanced

administrative mechanism in late 2009 and September 2016, determinations were made in 10,172 torture/nonrefoulement claims, among which only 65 were substantiated.

Employment: The government defines CAT claimants and asylum seekers as illegal immigrants or “overstayers” in the SAR, and as such they have no legal right to work in the SAR while claims are under review. Those granted either refugee status by UNHCR or relief from removal under the CAT could work only with approval from the director of immigration. They were also ineligible for training by either the Employees Retraining Board or the Vocational Training Council.

Section 3. Freedom to Participate in the Political Process

The Basic Law limits the ability of residents to change their government through free and fair elections. Article 45 of the Basic Law establishes as the “ultimate aim” direct election of the chief executive through “universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.” Since 2007 the people of Hong Kong, the SAR government, and the PRC central government have vigorously debated the nature, scope, and pace of democratic and electoral reforms.

Voters directly elect 40 of LegCo’s 70 seats by secret ballot. Thirty-five seats are designated as “geographic constituencies” (GCs) and 35 as “functional constituencies” (FCs). All 35 GCs are directly elected, while only five of the FCs are directly elected. The remaining 30 FC seats are selected by a subset of voters from FCs representing various economic and social sectors, which typically hold proestablishment views. Under this structure a limited number of individuals and institutions were able to control multiple votes for LegCo members. In 2016, the constituencies that elected these 30 FC LegCo seats consisted of 232,498 registered individual and institutional voters, of which some 172,820 voted, according to the SAR’s election affairs office statistics. The five FC seats in the district council sector, known as “super seats” were directly elected by the approximately five million registered voters who were not otherwise represented in another FC and therefore represented larger constituencies than any other seats in LegCo. The government has previously acknowledged the method of selecting FC legislators did not conform to the principle of universal suffrage, but it took no steps to eliminate the FCs in 2016.

In addition to strong showings from traditional prodemocracy parties, seven self-proclaimed “localists” won seats for the first time. The “localists” represent a range of political views, with campaign platforms variously focused on a referendum on self-determination after 2047; Hong Kong-first-focused policies; reforms for land development policies; and proindependence. The platform for the top vote-getter for the geographical constituency with the largest electorate, Chu Hoi-dick, touted self-determination in addition to land reform and environmental concerns. The “localists” in some cases won legislative seats over more traditional prodemocracy parties, leading to a wide range of views expressed within the LegCo.

Under the Basic Law, LegCo members may not introduce bills that affect public expenditure, the political structure, or government policy; only the government may introduce these types of bills. The SAR sends 36 deputies to the mainland’s NPC and had approximately 250 delegates in the Chinese People’s Political Consultative Conference—bodies that operate under the direction of the CCP and do not exercise legislative independence. The approval of the CE, two-thirds of LegCo, and two-thirds of the SAR’s delegates to the NPC are required to place an amendment to the Basic Law on the agenda of the NPC, which has the sole power to amend the Basic Law.

Voters directly elected all 431 of Hong Kong’s district council seats in November 2015 following the government’s elimination of appointed district council seats. Previously, the CE used his authority to appoint 68 of the 534 members of the district councils, the SAR’s most grassroots-level elected bodies.

Elections and Political Participation

Recent Elections: In 2012, in a process widely criticized as undemocratic, the 1,193-member CE Election Committee, dominated by proestablishment electors and their allies, selected C.Y. Leung to be the SAR’s chief executive. Leung received 689 votes. The PRC’s State Council formally appointed him, and then President Hu Jintao swore in Leung.

The next chief executive election is scheduled for March 2017 under an electoral process identical to the 2012 process, because the LegCo rejected an electoral reform package in June 2015 that prodemocracy legislators considered insufficiently democratic on the grounds that it did not allow voters directly to nominate the candidates for chief executive. On December 11, representatives of various commercial sectors, professions, religious organizations, and social service providers, as well as political representatives, elected the 1,194 electors who will cast ballots in the next chief executive election. Residents voiced concern that these small-

circle elections were open to participation by a very small number (230,000) of the SAR's 7.5 million residents. Additionally, while the 2016 Election Committee elections saw historically high turnout of 46 percent and a record number of contested seats across industrial, professional, grassroots, and political sectors, local political observers noted 300 members--approximately 25 percent--of the committee were elected without a poll or other transparent election process to represent 12 uncontested subsectors and one sub-subsector.

In September SAR residents elected representatives to the 70-member LegCo. The election, which saw record high turnout of 2.2 million voters, or over 58 percent, was considered generally free and fair according to the standards established in the Basic Law. The government acknowledged election observers and other residents had filed approximately 1,200 petitions about election misconduct with the Elections Affairs Committee following the conclusion of the LegCo election. Pro-PRC and proestablishment candidates won 40 of 70 LegCo seats, while prodemocracy candidates won 30, an increase over the 27 the opposition camp held from 2012 to 2016.

In July, for the first time the government announced all LegCo candidates would have to sign a Confirmation Form pledging their allegiance to the SAR and their intent to uphold the Basic Law, including three provisions that stated Hong Kong is an inalienable part of the PRC. Legal scholars and prodemocracy activists criticized the government's use of the Confirmation Form, noting the LegCo had not approved this change to the election procedures or the requirements for candidates to stand for legislative office. In August the government disqualified proindependence LegCo candidate Edward Leung, of the Hong Kong Indigenous party, from running in the election in the New Territories East district. An elections officer refused Leung's candidacy, even though Leung had signed the Confirmation Form and said he would drop his proindependence stance. Leung and another candidate filed judicial review applications charging that the use of the Confirmation Form was not in accordance with the SAR's laws. Leung also filed an elections petition in September alleging his disqualification from the race was unlawful.

Some observers expressed concern that the interpretation could restrict the right to stand for office guaranteed in Article 26 of the Basic Law for those who espouse proindependence views, and possibly for those who support self-determination as well. At the end of the year, the Hong Kong high court had disqualified two proindependence legislators-elect, Yau Wai-ching and Sixtus Leung, from taking office. The September election of proindependence legislators followed a July poll of public opinion conducted by the Chinese University of Hong Kong that found that while only 4 percent of respondents thought independence was possible for Hong Kong, 17 percent of them, including 39 percent of respondents aged 15 to 24, supported independence when the current political arrangement expires in 2047.

At a press conference announcing the NPCSC interpretation, NPCSC Legal Committee Chair Li Fei suggested that support for self-determination would be treated the same as promoting independence, and could thus disqualify legislators under the new interpretation. On December 2, Chief Executive Leung and Secretary for Justice Yuen filed a legal challenge to the legitimacy of four other opposition legislators--veteran activist "Long Hair" Leung Kwok-hung, former Occupy Central student leader Nathan Law, lecturer Lau Siu-lai, and university professor Edward Yiu--over the manner in which they took their oaths. The courts accepted the government's judicial review application on December 15, and initial hearings for the cases are expected to be held in February 2017. Support for "localist" platforms, including self-determination (generally understood to refer to a referendum on Hong Kong's status in 2047) was a key component of several elected legislators' platforms, including those of Law and Lau.

The Independent Commission against Corruption (ICAC) was estimated to have received well over 200 complaints concerning alleged breaches of provisions under the Elections (Corrupt and Illegal Conduct) Ordinance. Media reported the complaints included allegations of fraudulently registering voters without their consent, bribing voters, voting after giving false or misleading information to an elections officer, incurring election expenses by persons other than the candidate or his agent, publishing false or misleading statements about a candidate, publishing election advertisements that did not meet certain requirements, failing to file election returns, and providing others with refreshments and entertainment at elections.

Political Parties and Political Participation: Pandemocratic parties faced a number of institutional challenges, which hampered them from securing a majority of the seats in the LegCo or having one of their members become CE. Of LegCo's 70 seats, 30 were elected by FCs, most of whom are supportive of the central government; representatives from 12 of these constituencies ran unopposed, while over 150 parties contested the SAR's 35 GC seats. The law does not permit tax-exempt contributions to political parties. The voting process helped ensure that proestablishment allies controlled a majority of seats in LegCo. Additionally, the central government and its business supporters provided generous financial resources to parties that supported the central government's political agenda in the SAR, ensuring that these organizations would control the levers of government and senior positions. According to local press reports, several political groups voiced concern that the Central Government Liaison Office (CGLO) interfered with legislative campaigns, lobbying for pro-Beijing candidates and threatening or harassing others. In August, Liberal Party candidate Ken Chow suspended his campaign for a LegCo seat, alleging CGLO affiliates had harassed him and threatened the safety of his family. At year's end, the ICAC, the Liberal Party, and the HKSAR had undertaken investigations into Chow's allegations. Chow subsequently quit the Liberal Party.

Participation of Women and Minorities: Five of the 30 members of the Executive Council (cabinet-level secretaries and “nonofficial” councilors who advise the CE) were women. Eleven of the 40 directly-elected LegCo members were women, and a woman held one of the 35 FC seats. Fourteen of the 45 most senior government officials (secretaries, undersecretaries, and permanent secretaries) were women.

There is no legal restriction against non-Chinese running for electoral office, serving as electoral monitors, or participating in the civil service, although most elected or senior appointed positions require that the officeholder have a legal right of abode only in the SAR. There were no members of ethnic minorities in the LegCo. The government regarded ethnic origin as irrelevant to civil service appointment and did not require applicants to declare their ethnicity or race in their applications for government jobs. Some observers criticized this practice as preventing the government from monitoring hiring and promotion rates for individuals who were not ethnically Chinese. In March, citing underrepresentation of ethnic minorities in the government, a local foundation published a list of 16 ethnic minority candidates who had relevant experience and Cantonese language, encouraging the government to appoint these candidates to serve on government advisory committees.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, and the government generally implemented it effectively. The SAR continued to be viewed as relatively uncorrupt.

Corruption: In July controversy erupted over the independence and impartiality of the ICAC after a senior official leading a corruption investigation of Chief Executive Leung was mysteriously demoted. Prior to the demotion, Rebecca Li, who led the ICAC operations department, had a distinguished career spanning three decades. In 2015, she became the agency’s most senior career official, a first for a woman. Li’s department was responsible for conducting an investigation into whether Mr. Leung properly disclosed U.S. \$6.4 million in payments he received from an Australian company that does business with the city. Li resigned following the demotion. Her sudden departure reportedly led one of her top investigators to resign in protest, and ICAC employees collectively refused to attend the annual staff dinner in protest and forced its cancellation. ICAC had not yet provided its perspective by year’s end.

In October the prosecution in an existing case charging former chief executive Donald Tsang with two counts of misconduct in public office in connection with a below-market lease and hiring of an architect for a luxury apartment in Shenzhen added an additional bribery charge related to the redecoration of the penthouse. Together, the charges carry a maximum HK\$500,000 fine and seven years imprisonment. Tsang remained free on bail while the cases proceeded; his trial reopened in January 2017.

Financial Disclosure: The SAR requires the 27 most senior civil service officials to declare their financial investments annually and the approximately 3,100 senior working-level officials to do so biennially. Policy bureaus may impose additional reporting requirements for positions seen as having a greater risk of conflict of interest. The Civil Service Bureau monitors and verifies disclosures, which are available to the public. There are criminal and administrative sanctions for noncompliance.

Public Access to Information: There is no freedom of information law. An administrative code on access to information serves as the framework for the provision of information by government bureaus and departments and the ICAC.

Under the code authorities may refuse to disclose information if doing so would cause or risk causing harm or prejudice in several broad areas: national security and foreign affairs (which are reserved to the central government); immigration issues; judicial and law enforcement issues; direct risks to individuals; damage to the environment; improper gain or advantage; management of the economy; management and operation of the public service; internal discussion and advice; public employment and public appointments; research, statistics, and analysis; third-party information; business affairs; premature requests; and information on which legal restrictions apply. Political inconvenience or the potential for embarrassment were not justifiable bases for withholding information.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. Prominent human rights activists critical of the central government also operated freely and maintained permanent resident status in the SAR.

Government Human Rights Bodies: There is an Office of the Ombudsman and an Equal Opportunities Commission (EOC). The government recruits commissioners to represent both offices through a professional search committee, which solicits applications and vets candidates. Commissioners were independent in their operations. Both organizations operated without interference from the government and published critical findings in their areas of responsibility. In January the EOC, under the supervision of Commissioner Dr. York Chow, published a list of 77 recommendations for how to update the SAR's existing antidiscrimination legislation to better protect Hong Kong's lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals, improve access to public and commercial buildings for persons with disabilities, and other issues within the EOC's responsibility. In March, Lingnan University professor Alfred Chan replaced Chow as EOC Commissioner; Chan continues to serve the EOC as an advocate for LGBTI rights, the ethnic minority community, and persons with disabilities.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and police enforced the law effectively. Activists voiced concerns that rape was underreported, especially within the ethnic minority community, but acknowledged the police responded appropriately in reported cases.

The government regarded domestic violence against women as a serious concern and took measures to prevent and prosecute offenses. The law allows victims to seek a three-month injunction, extendable to six months, against an abuser. Although the law does not criminalize domestic violence directly, abusers may be liable for criminal charges under other ordinances. The government effectively enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders.

The law covers molestation between married couples, homosexual and heterosexual cohabitants, former spouses or cohabitants, and immediate and extended family members. It protects victims under age 18, allowing them to apply for an injunction in their own right, with the assistance of an adult guardian, against molestation by their parents, siblings, and specified immediate and extended family members. The law also empowers the court to require that the abuser attend an antiviolence program. In cases in which the abuser caused bodily harm, the court may attach an authorization of arrest to an existing injunction and extend both injunctions and authorizations for arrest to two years.

The government maintained programs that provided intervention, counseling, and assistance to domestic violence victims and batterers. The government continued its public information campaign to strengthen families and to prevent violence.

Activists reported domestic violence was more prevalent against ethnic minority women.

Sexual Harassment: The law prohibits sexual harassment or discrimination on the basis of sex, marital status, and pregnancy. The law applies to both men and women, and police enforced the law effectively.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of children; manage their reproductive health; and have access to the information and means to do so, free from discrimination, coercion, or violence.

Discrimination: Women enjoy the same legal status and rights as men. The SAR's sexual discrimination ordinance prohibits discrimination on the grounds of sex or pregnancy status, and the government generally enforced this antidiscrimination law.

According to gender-rights activists and public policy analysts, while the law treats men and women equally in terms of property rights in divorce settlements and inheritance matters, women faced discrimination in employment, salary, welfare, inheritance, and promotion.

The law authorizes the EOC to work towards the elimination of discrimination and harassment as well as to promote equal opportunity between men and women. A Women's Commission served as an advisory body for

policies related to women, and a number of NGOs were active in raising problems of societal attitudes and discrimination against women.

Children

Birth Registration: All Chinese nationals born in the SAR, on the PRC mainland, or abroad to parents of whom at least one is a PRC-national Hong Kong permanent resident acquire both PRC citizenship and Hong Kong permanent residence, the latter allowing the right of abode in the SAR. Children born in the SAR to non-Chinese parents, at least one of whom is a Hong Kong permanent resident, acquire SAR permanent residence and qualify to apply for naturalization as PRC citizens. Registration of all such statuses was routine.

Child Abuse: The law mandates protection for victims of child abuse (battery, assault, neglect, abandonment, and sexual exploitation), and the government enforced the law. The law allows for the prosecution of certain sexual offenses, including against minors, committed outside the territory of the SAR.

The government provided parent-education programs through its maternal and child health centers, public education programs, clinical psychologists for its clinical psychology units, and social workers for its family and child protective services units. Police maintained a child abuse investigation unit and in collaboration with the Social Welfare Department ran a child witness support program. A law on child-care centers helped prevent unsuitable persons from providing childcare services.

Early and Forced Marriage: The legal minimum age of marriage is 16, and parents' written consent is required for marriage before the age of 21. There was no evidence of early or forced marriage in the SAR.

Sexual Exploitation of Children: There were reports of girls under the age of 18 from some countries in Asia being subjected to sex trafficking in the SAR.

The legal age of consent is 16. Under the law a person having "unlawful sexual intercourse" with a victim under 16 is subject to five years' imprisonment, while having unlawful sexual intercourse with a victim under 13 carries a sentence of life imprisonment.

The law makes it an offense to possess, produce, copy, import, or export pornography involving a child under the age of 18 or to publish or cause to be published any advertisement that conveys or is likely to be understood as conveying the message that a person has published, publishes, or intends to publish any child pornography. Authorities generally enforced the law. The penalty for creation, publication, or advertisement of child pornography is eight years' imprisonment, while possession carries a penalty of five years' imprisonment.

International Child Abductions: The SAR is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

The Jewish community numbered 5,000 to 6,000 persons and reported few acts of anti-Semitism during the year. There were concerns within the Jewish community about some religious rhetoric heard from the otherwise moderate Muslim community.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, air travel and other transportation, and the provision of other state services, including access to the judicial system and the government generally enforced these provisions. The government generally implemented laws and programs to ensure that persons with disabilities have access to buildings, information, and communications, although there were reports of some restrictions.

The Disability Discrimination Ordinance states that children with special education needs must have equal opportunity in accessing education. It is against the law for a school to discriminate against a student with a disability. According to the government, students with significant or multiple disabilities are, with parental consent, placed in special segregated schools, while students with less significant disabilities are enrolled in

mainstream schools. There were occasional media reports about alleged abuses in education and mental health facilities; the most recent court case involving such abuses was in 2011.

The SAR implemented a range of legislative, administrative, and other measures to enhance the rights of persons with disabilities. Some human rights groups reported that the SAR's Disability Discrimination Ordinance was too limited and did not oblige the government to promote equal opportunities.

The Social Welfare Department provided training and vocational rehabilitation services to assist persons with disabilities, offered subsidized resident-care services for persons considered unable to live independently and offered places for preschool services to children with disabilities, and provided community support services for persons with mental disabilities, their families, and other local residents.

Persons with disabilities filed legal cases indicating instances of discrimination against persons with disabilities persisted in employment, education, and the provision of some public services. The law calls for improved building access and sanctions against those who discriminate. Access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities.

Some persons with disabilities protested that the government discriminated against them with respect to social security assistance.

According to the EOC, the SAR lagged in providing equal opportunities for students with disabilities, despite having operated an integrated education policy since 1997.

National/Racial/Ethnic Minorities

Although 94 percent ethnic Chinese, Hong Kong is a multi-ethnic society with persons from a number of ethnic groups recognized as permanent residents with full rights under the law. The law prohibits discrimination, and the EOC oversees implementation and enforcement of the law. The EOC maintained a hotline for inquiries and complaints concerning racial discrimination. The EOC's code of practice (along with selected other EOC materials) was available in Hindi, Thai, Urdu, Nepali, Indonesian, and Tagalog, in addition to Chinese and English.

The government has a policy to integrate non-Chinese students into the SAR's schools and provided a special grant for some schools to develop their own programs, share best practices with other schools, develop supplementary curriculum materials, and set up Chinese-language support centers to provide after-school programs. Activists and scholars noted that programs encouraging predominantly Chinese schools to welcome minority students backfired, turning certain schools into "segregated institutions." These schools reportedly did not teach Chinese to the non-ethnic Chinese students. Students who did not learn Chinese had significant difficulty entering university and the labor market, according to government and NGO reports.

Activists continued to express concern that there was no formal government-sponsored course to prepare students for the General Certificate for Secondary Education examination in Chinese, a passing grade from which is required for most civil service employment. The government provided funds to subsidize the cost of these examinations. The government began accepting alternate credentials for Hong Kong students to enter the SAR's universities, though scholars assessed ethnic minority students faced a tough choice between either preparing for the General Certificate examination, which would enable entry into many civil service jobs, or preparing for alternate tests, which might enable entry into the SAR's universities.

Activists and the government disputed whether new immigrants from the mainland should be considered as a population of concern under antidiscrimination laws. While concerns were raised that new immigrants do not qualify to receive social welfare benefits until they have resided in the SAR for seven years, the courts upheld this legal standard. Such immigrants could apply on a case-specific basis for assistance.

Acts of Violence, Discrimination, and Other Abuses based on Sexual Orientation and Gender Identity

No laws criminalize consensual same-sex sexual activity. While the SAR has laws that ban discrimination on the grounds of race, sex, disability, and family status, no law prohibits companies or individuals from discriminating on grounds of sexual orientation or gender identity; there are also no laws that specifically aid in the prosecution of bias-motivated crimes against members of the LGBTI community.

The government claimed public education and existing civil and criminal laws were sufficient to protect the rights of the LGBTI community and that legislation was not necessary. A small community of religious organizations continued to lobby the government and campaign actively to prevent the SAR's recognition of same-sex marriage. LGBTI professionals are permitted to bring foreign partners to the SAR only on a

“prolonged visitor visa.” Successful applicants, however, cannot work, obtain an identification card, or qualify for permanent residency.

LGBTI persons were able to arrange large scale activities, including pride marches and other community events.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law provides for the right of workers to form and join independent unions without previous authorization or excessive requirements and to conduct legal strikes, but it does not protect the right to collective bargaining or obligate employers to bargain. Trade unions claimed the law allows employers simply to refuse to bargain. The law explicitly prohibits civil servants from bargaining collectively; the International Labor Organization (ILO) advised this restriction was too broad and not in line with international standards.

Trade unions must register with the government’s Registry of Trade Unions and must have a minimum membership of seven persons for registration. Workers were not prevented from unionizing, but only Hong Kong residents could join unions or serve as union officers. The law allows the use of union funds for political purposes, provided a union has the authorization of the majority of its voting members at a general meeting.

The law provides for the right to strike, although there are some restrictions on this right for civil servants. The Commissioner of police has broad authority to control and direct public gatherings in the interest of national security or public safety. According to the Employment Ordinance, an employer cannot fire, penalize, or discriminate against an employee who exercises his or her union rights and cannot prevent or deter the employee from exercising such rights. Under the Employment Ordinance, an employee unreasonably and unlawfully dismissed (including on the grounds of the employee exercising trade union rights) is entitled to reinstatement or reengagement, subject to mutual consent of the employer and the employee, or compensation up to a maximum of HK\$150,000 (\$19,300) for unreasonable and unlawful dismissal.

Penalties for violations of laws providing for freedom of association and collective bargaining laws included fines payable to the government as well as legal damages paid to workers and were sufficient to deter violations. Under the Employment Ordinance, employers who violated antiunion laws were liable to a fine of HK\$100,000 (\$13,000). Administrative and judicial procedures were not subject to lengthy delays.

The government effectively enforced the law. The Workplace Consultation Promotion Division in the Labor Department facilitated communication, consultation, and voluntary negotiation between employers and employees. Tripartite committees for each of the nine sectors of the economy included representatives from some trade unions, employers, and the Labor Department. During a labor dispute, the Labor Relations Division of the Labor Department facilitates conciliation so that the dispute can be settled with minimum friction and disruption.

Worker organizations were independent of the government and political parties. Prodemocracy labor activists alleged, however, that only progovernment unions were able to participate substantively in the tripartite process, while the prodemocracy Hong Kong Confederation of Trade Unions was consistently excluded. Trade Unions are prohibited from using funds for “political purposes.”

Although there is no legislative prohibition against strikes and the right and freedom to strike are enshrined in the Basic Law, most workers had to sign employment contracts that typically stated walking off the job was a breach of contract and could lead to summary dismissal, though there were no incidents in 2016 that tested this legal contradiction. Various sections of the Employment Ordinance prohibit firing an employee for striking and void any section of an employment contract that would punish a worker for striking. As in past years, approximately 5,000 participated in the annual May 1 Labor Day march calling for standard working hours and a universal pension program. According to the government, there were no reports that employers fired workers for participating in a strike last year. The government reported that as of September last year, two strikes involving 106 workers had occurred. Activists claimed more strikes took place but that the government did not want to tarnish the SAR’s business-friendly image by acknowledging them.

b. Prohibition of Forced or Compulsory Labor

The law does not prohibit all forms of forced or compulsory labor, nor do laws specifically criminalize forced labor. Hong Kong does not have a specific law explicitly banning labor trafficking. Instead, the SAR uses its Employment and Theft Ordinances to prosecute labor violations and related offenses.

NGOs voiced concerns some migrant workers faced high levels of indebtedness assumed as part of the recruitment process, creating a risk they could fall victim to debt bondage. The SAR allows for the collection of placement fees up to 10 percent of the first month's wages, but some recruitment firms required large up-front fees in the country of origin that workers struggled to repay even after arriving and working in Hong Kong for some time. Some locally licensed employment agencies were suspected of colluding with agencies in the Philippines and Indonesia to profit from a debt scheme, and some local agencies illegally confiscated the passports, employment contracts, and automatic teller machine cards of domestic workers and withheld them until their debt had been repaid. The government conveyed its concerns about these cases to a number of foreign missions.

There also were reports that some employers illegally forbade domestic workers from leaving the residence of work for non-work-related reasons, effectively preventing them from reporting exploitation to authorities. SAR authorities claimed they encouraged aggrieved workers to lodge complaints and make use of government conciliation services, as well as actively pursued reports of any labor violations.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/.

c. Prohibition of Child Labor and Minimum Age for Employment

Regulations prohibit employment of children under age 15 in any industrial establishment. Other regulations limit work hours in the manufacturing sector for persons ages 15-17 to eight hours per day and 48 hours per week between 7 a.m. and 7 p.m. The law prohibits overtime in industrial establishments with employment in dangerous trades for persons under the age of 18.

Children aged 13-14 may work in certain nonindustrial establishments, subject to conditions aimed at ensuring a minimum of nine years of education and protection of their safety, health, and welfare.

The Labor Department effectively enforced these laws and regularly inspected workplaces to enforce compliance with the regulations. Penalties for violations of child labor laws include fines and legal damages up to HK\$50,000 (\$6,500) and were sufficient to deter violations. In the first eight months of the year, the Labor Department detected no violations of child labor regulations.

There were some reports that girls from some countries in Asia were subjected to commercial sexual exploitation (see section 6, Children).

d. Discrimination with respect to Employment and Occupation

The law and regulations prohibit employment discrimination on the grounds of race or ethnicity, disability, family status (marital status and/or pregnancy), or sex. The law stipulates employers must prove that proficiency in a particular language is a justifiable job requirement if they reject a candidate on these grounds. Regulations do not prohibit employment discrimination on the grounds of color, religion, political opinion, national origin or citizenship, sexual orientation and/or gender identity, HIV-positive status or other communicable diseases, or social status.

The government generally enforced these laws and regulations. In cases in which employment discrimination occurred, the SAR's courts had broad powers to levy penalties on those who violated these laws and regulations. Penalties included ordering reinstatement of employees as well as the awarding of damages for loss or emotional damages. These penalties were sufficient to deter violations.

Women reported they faced discrimination in employment, salary, welfare, inheritance, and promotion, and some victims filed lawsuits on these grounds. NGOs assessed gender discrimination was more widespread, but many women preferred not to file discrimination cases. Women reportedly formed the majority of the working poor and those who fell outside the protection of labor laws. Instances of discrimination against persons with disabilities persisted in employment and access. The government estimated approximately 81,000 persons with disabilities were economically active throughout the SAR, of whom 76,200 were employed. LGBTI persons reported discrimination in finding and keeping employment if they disclosed their sexual orientation or sexual identity.

Human rights activists and local scholars continued to raise concerns about job prospects for minority students, who are more likely to hold low-paying, low-skilled jobs and earn below-average wages. Academics assessed the lack of Chinese language skills were the greatest barriers to employment. Minority group leaders and activists reported government requirements for all job applicants to speak Chinese kept nonnative Chinese speakers out of civil service and law enforcement positions. The police force reportedly employed 100 non-ethnic-Chinese constables as of the beginning of the year.

e. Acceptable Conditions of Work

The statutory minimum hourly wage was readjusted last year to HK\$32.50 (\$4.18). On October 1, the SAR increased domestic workers' minimum monthly wage from HK\$4,210 (\$542) to HK\$4,310 (\$555) and increased their minimum monthly food allowance from HK\$995 (\$128) to HK\$1,037 (\$134).

The official poverty line was half of the median monthly household income before tax and welfare transfers, based on household size. For a one-person household, the poverty line was set at HK\$3,600 (\$463), for a two-person household HK\$7,700 (\$990), for a three-person household HK\$11,500 (\$1,480), and so on. According to this definition, more than 1.3 million persons (in a population of approximately 7.2 million) were living in poverty.

There is no law concerning working hours, paid weekly rest, rest breaks, or compulsory overtime for most employees. For certain groups and occupations, such as security guards and certain categories of drivers, there are regulations and guidelines on working hours and rest breaks. The law stipulates that employees are entitled to 12 days of statutory holidays and employers must not make payment in lieu of granting holidays. Local union groups and the government continued to debate standard working hours legislation, differing in whether the weekly standard should be set at 40, 44, or 48 hours. In the absence of such legislation, labor rights groups reported most Hong Kong residents work approximately 56 hours a week.

The government's Standard Employment Contract requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the monthly minimum wage of approximately U.S. \$542, which together provided a decent standard of living. In its explanation of why live-in domestic workers (both local and foreign) would not be covered by the statutory minimum wage, the government explained "the distinctive working pattern--round-the-clock presence, provision of service-on-demand, and the multifarious domestic duties expected of live-in domestic workers--made it impossible to ascertain the actual hours worked so as to determine the wages to be paid."

Foreign domestic workers could be deported if dismissed. After leaving one employer, workers have two weeks to secure new employment before they must leave the SAR. Activists contended this restriction left workers vulnerable to abuse by employers. Workers who pursued complaints through legal channels could be granted leave to remain in the SAR but could not work, leaving them either to live from savings or depend on charitable assistance. The government contended the "two-week rule" was necessary to maintain effective immigration control and prevent migrant workers from overstaying and taking unauthorized work.

The government enforced the law. The Labor Tribunal received employment cases and convicted employers in disputes involving foreign domestic workers, most of which the government said were related to nonpayment or underpayment of wages and wrongful dismissal. Domestic workers could also be subject to physical and verbal abuse, poor living and working conditions, and limitations on freedom of movement.

In late December a High Court judge ruled that the government failed to protect adequately the human rights and safety of a Pakistani man trafficked to Hong Kong and forced into unpaid labor for several years. At year's end, the government had not indicated if it planned to file an appeal of the case. The government stated the rules on labor protections and time off cover local and migrant workers.

Laws exist to provide for health and safety of workers in the workplace. Workers may remove themselves from situations that endanger health or safety without jeopardy to their employment. No laws restrict work during typhoon or rainstorm warnings. The Labor Department issued a "code of practice" on work arrangements in times of severe weather, which includes a recommendation that employers require only essential staff to come to work during certain categories of typhoon or rainstorm warnings. Both progovernment and pandemocratic unions called for a review of protections for workers during inclement weather, including legal protections.

Data on the number of labor inspectors working for the Department of Labor during the year were unavailable. Penalties for violations of minimum wage or occupational safety and health violations included fines, payments of damages, and worker's compensation payments. These penalties were sufficient to deter violations. The Occupational Safety and Health Branch of the Labor Department is responsible for safety and health promotion, enforcement of safety management legislation, and policy formulation and implementation; it enforced occupational safety and health laws effectively.

Employers and employer associations often set wages. Additionally, some activists claimed that employers used employment contracts that defined workers as "self-employed" to avoid employer-provided benefits, such as paid leave, sick leave, medical insurance, workers' compensation, or Mandatory Provident Fund payments. According to the Labor Department, there were cases in which employers faced heavy court fines for such behavior. The department held that it was seeking to promote public awareness, consultation, conciliation services, and tougher enforcement to safeguard employees' rights.

According to the General Household Survey conducted by the Census and Statistics Department during last year, approximately 17 percent of employees worked 60 hours or more per week. In the first quarter of last year, the Labor Department recorded 7,786 occupational injuries, including 2,404 classified as industrial accidents, most of which occurred in the construction, manufacturing, and transportation sectors. In the same period, there were five fatal industrial accidents. Employers are required to report any injuries sustained by their employees in work-related accidents. Labor activists continued to raise concerns about fatal industrial accidents, which primarily occurred in construction and infrastructure industries.

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