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Freedom in the World 2010 - Hong Kong [China]

Capital: N/A

Population: 7,037,000

Political Rights Score: 5 *

Civil Liberties Score: 2 *

Status: Partly Free

Overview

A record 150,000 people attended a candlelight vigil in June 2009 to commemorate the 20th anniversary of the massacre in which Chinese security forces crushed prodemocracy protests in Beijing and other cities. In November, the Hong Kong government proposed reforms to the electoral system. The plan included expansions of the legislature and the election committee that chooses the chief executive, but would largely preserve the existing semidemocratic system. Separately, Beijing's growing influence over Hong Kong's media landscape and immigration policies was evident during the year.

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 (SAR), known as the Basic Law, took effect in 1997. Stating that universal suffrage was the "ultimate aim" for Hong Kong, the Basic Law allowed direct elections for only 18 seats in the 60-member legislature, known as the Legislative Council (Legco), with 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 After China took control, it temporarily suspended the Legco and installed a provisional legislature that repealed or tightened several civil liberties laws during its 10-month tenure.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 – Basic Law Article 23 – after it sparked massive 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, who China's National People's Congress (NPC) decided would serve out the remainder of Tung's term before facing election. In 2007, Hong Kong held competitive elections for chief executive after democracy supporters on the 800-member election committee nominated a second candidate, Alan Leong. However, Tsang won a new term by a wide margin, garnering 82 percent of the votes in the mostly pro-Beijing committee.

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

In November 2009, the government published a consultation document on proposed electoral reforms for the 2012 polls that would ostensibly serve as a transitional arrangement until the anticipated adoption of universal suffrage in 2017 for the chief executive and 2020 for the Legco. The system outlined in the plan did not represent substantive progress toward full democracy. Observers noted that the Hong Kong government's reluctance to make more drastic changes was partly due to restrictions imposed by several decisions of China's National People's Congress (NPC) Standing Committee, the most recent in 2007, and the requirement that any reforms obtain its approval. At year's end, the proposal remained open for public consultation, and Tsang was expected to submit a draft to the Legco in February 2010.

Beijing's growing influence over Hong Kong's media landscape and immigration policies remained evident during 2009. However, partly in response to comments by Tsang in which he downplayed the 1989 Tiananmen Square massacre, a record turnout of 150,000 people joined an annual candlelight vigil in June to commemorate the incident, in which Chinese security forces had crushed prodemocracy protests in Beijing and other cities. Public events marking the anniversary were not permitted in the rest of China.

Political Rights and Civil Liberties

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

The Legco consists of 30 directly elected members and 30 members chosen by the functional constituency voters. Legco members serve four-year terms. The Basic Law restricts the Legco's lawmaking powers, prohibiting legislators from introducing bills that would affect Hong Kong's public spending, governmental operations, or political structure. In the territory's multiparty system, the five main parties are the prodemocracy Democratic Party, Civic Party, and League of Social Democrats; the pro-Beijing Democratic Alliance for the Betterment and Progress of Hong Kong; and the business-oriented Liberal Party.

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

The consultation document on electoral reform introduced in November 2009 proposed several modest changes to the current system. The election committee for the chief

executive would expand from 800 to 1,200 members, but would otherwise retain its existing composition. The Legco would expand from 60 to 70 seats, with direct elections for five of the new seats and the remaining five chosen indirectly by elected members of Hong Kong's 18 district councils. The consultation document did not include a blueprint for adopting universal suffrage in 2017 and 2020, contravening the government's earlier promises and heightening fears that the transition would be pushed further into the future.

Politically motivated violence is rare in Hong Kong. However, a total of 11 suspects – one in Hong Kong and ten in China – involved in a 2008 plot to shoot prominent prodemocracy politician Martin Lee and media tycoon Jimmy Lai, known for his vocal criticism of the Chinese Communist Party, received sentences of up to 18 years in prison in 2009. The plot's alleged mastermind was said to reside in Taiwan and remained at large at year's end.

Hong Kong is generally regarded as having low rates of corruption, although business interests have considerable influence on the Legco. In May 2009, the territory's internationally respected Independent Commission Against Corruption reported a 23 percent increase in graft complaints during the first three months of the year compared with the same period in 2008. This was widely viewed as a result of the economic downturn, as officials were more inclined to engage in graft to compensate for personal financial losses. The right to access government information is protected by law and observed in practice. Hong Kong was ranked 12 out of 180 countries surveyed in Transparency International's 2009 Corruption Perceptions Index.

Under Article 27 of the Basic Law, Hong Kong residents enjoy freedoms of speech, press, and publication. These rights are generally respected in practice, and political debate is vigorous. There are dozens of daily newspapers, and residents have access to international radio broadcasts and satellite television. International media organizations operate without interference. Nonetheless, Beijing's growing influence over the media, book publishing, and film industries in recent years has led to self-censorship, particularly on issues deemed sensitive by the central government. This influence stems in part from the close relationship between Hong Kong media owners and the central authorities; at least 10 such owners sit on the CPPCC. In one incident during 2009, managers of the Hong Kong edition of *Esquire* magazine barred the publication of a 16-page feature about the Tiananmen Square massacre, and the feature's author was subsequently fired. More broadly, the Hong Kong Journalists' Association reported that "only two or three newspapers devoted significant coverage to the anniversary, while leading TV stations aired just a few special programs, with some appearing to follow [the Communist Party's] line."

Hong Kong journalists face a number of restrictions when covering events on the mainland. In February 2009, Chinese authorities issued regulations requiring Hong Kong journalists to obtain temporary press cards from Beijing's liaison office prior to each reporting trip to the mainland, and to secure the prior consent of interviewees. While violence against journalists is rare in Hong Kong, reporters from the territory have repeatedly faced surveillance, intimidation, beatings, and occasional imprisonment when reporting on the mainland. In September, three journalists – a television reporter and two cameramen – were reportedly detained and beaten by police while covering unrest in Xinjiang. An official Chinese investigation concluded that the journalists had been at fault for "instigating protests," prompting a demonstration and a petition by hundreds of Hong Kong journalists.

The Hong Kong government, rather than an independent regulator, controls media licensing in the territory. Authorities continued to obstruct broadcasts by the prodemocracy station Citizens' Radio in 2009, after its license application was rejected in 2006. In November and December, more than a dozen prodemocracy activists and lawmakers were fined between US\$125 and US\$1,500 each for participating in unlicensed radio broadcasts, though one of the judges ruling on the case acknowledged the act of civil disobedience as "noble." Separately, in September, the government rejected proposals to convert the state-owned but editorially independent Radio Television Hong Kong (RTHK) into a fully independent public broadcaster, or to create

such an outlet. Officials instead announced the creation of a government-appointed board to advise RTHK's director of broadcasting, potentially curbing the station's editorial autonomy. A period for public consultation on the issue began in October and had not concluded by year's end.

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 in the territory and hold occasional demonstrations despite facing repression on the mainland. University professors can write and lecture freely, and political debate on campuses is lively.

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. In June 2009, a record 150,000 people participated in a candlelight vigil to mark the 20th anniversary of the Tiananmen Square massacre. Nevertheless, outside activists who planned to participate in events highlighting rights abuses in China continued to be denied entry or prevented from leaving the mainland in 2009.

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 and wages. While strikes are legal and several occurred in 2009, many workers sign contracts stating that walkouts could be grounds for summary dismissal.

The judiciary is independent, and the trial process is fair. The NPC reserves the right to make final interpretations of the Basic Law, effectively limiting the power of Hong Kong's Court of Final Appeals. While the NPC has not directly intervened in court cases for a number of years, several recent incidents raised concerns about growing influence from Beijing over law enforcement matters. In 2008, U.S.-based Tiananmen Square activist Zhou Yongjun was detained while visiting Hong Kong on a fake Malaysian passport, and in an unusual move, he was handed over to authorities on the mainland. He was tried there on bank fraud charges in 2009, although it remained unclear whether he or the person named on the fake passport was wanted by the authorities; a verdict was pending at year's end. Also in 2009, Hong Kong officials decided not to prosecute family members and acquaintances of Zimbabwean president Robert Mugabe, a close Beijing ally, after they physically assaulted several foreign journalists. Chief justice Andrew Li Kwok-nang, who has headed the judiciary since the handover, announced his retirement in September 2009; at year's end, observers were watching to see who would be his successor and whether that individual would uphold the same standards of independence.

Police are forbidden by law to employ torture and other forms of abuse. However, official figures indicated that police conducted over 1,600 strip searches in 2008, leading to the adoption in February 2009 of additional measures to monitor and limit the use of such searches. Arbitrary arrest and detention are illegal; suspects must be charged within 48 hours of their arrest. Prison conditions generally meet international standards.

Citizens are treated equally under the law, though Hong Kong's population of 200,000 foreign domestic workers remains vulnerable to abuse, and South Asians routinely complain of discrimination in employment. Since foreign workers face deportation if dismissed, many are reluctant to bring complaints against employers. A Race Discrimination Ordinance that took effect in July 2009 created an independent Equal Opportunities Commission to enforce its protections. However, in September the UN Committee on the Elimination of Racial Discrimination criticized the ordinance for failing to cover certain government actions, neglecting the issue of indirect discrimination, and effectively excluding immigrants.

The government does not control travel, choice of residence, or employment within Hong Kong, although 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. In September 2009, an appeals court criticized the government for lack of candor and destruction of relevant documents in a lawsuit challenging the denial of entry to four Taiwanese Falun Gong practitioners in 2003; however, the court was reluctant to conclude that the immigration department had acted in an unlawful fashion in denying the plaintiffs' entry. Five Legco members and several human rights activists from Hong Kong were barred entry to Macau in March 2009, shortly after that territory passed new national security legislation; many of those affected are regularly barred from the mainland as well.

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

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

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