



THE SIX-MONTHLY REPORT ON HONG KONG
1 JULY TO 31 DECEMBER 2015

Deposited in Parliament by the Secretary of State for Foreign and
Commonwealth Affairs

11 FEBRUARY 2016

FOREWORD

This is the 38th in a series of reports to Parliament on the implementation of the 1984 Sino–British Joint Declaration on the Question of Hong Kong. It covers the period from 1 July to 31 December 2015.

Some 31 years after the Governments of the UK and China signed the Joint Declaration, Hong Kong remains of great importance to the UK. Over 630 UK companies have offices in Hong Kong and UK investment in Hong Kong (conservatively valued at £33bn) makes up about 35 per cent of total UK investment in Asia. We also have strong education links: the UK was the top overseas English-speaking study destination for Hong Kong higher education students in 2014/15. There are also approximately 3.7 million British passport holders in Hong Kong. Hong Kong and the UK share the same commitment to making global trade easier and more transparent. As two of the most important global financial centres, London and Hong Kong are pivotal to the world economy. During this reporting period, we welcomed the Chief Executive of Hong Kong, CY Leung, to the UK on his first official visit in that capacity in October. And we have furthered our co-operation in areas of mutual interest to Britain and Hong Kong, including in health, education and finance. It was fitting too that as one of the foremost common law jurisdictions in the world, Hong Kong hosted one of the original copies of Magna Carta in November as part of the celebrations to mark Magna Carta's 800th anniversary. Thousands of people in Hong Kong went to see the exhibition, a reflection of popular attachment to the rule of law.

The 'One Country, Two Systems' principle stipulates that Hong Kong enjoys a high degree of autonomy, an independent judiciary, and freedoms including of the press, of academia and of expression. This constitutional arrangement has served Hong Kong well. While we assess that during the reporting period 'One Country, Two Systems' has, in very many areas, continued to function well, there have been some areas which have given grounds for concern. These revolve principally around the rights and freedoms guaranteed by the Joint Declaration, including academic freedom and the freedom of the press. They are discussed in more detail in this report.

The unexplained disappearance of five individuals associated with a Hong Kong bookstore and publishing house has raised questions in Hong Kong. I am particularly concerned by the situation of Mr Lee Po, a British citizen. The full facts of the case remain unclear, but our current information indicates that Mr Lee was involuntarily removed to the mainland without any due process under Hong Kong SAR law. This constitutes a serious breach of the Sino-British Joint Declaration on Hong Kong and undermines the principle of “One Country, Two Systems” which assures Hong Kong residents of the protection of the Hong Kong legal system.

We have called, in our contacts with the Chinese government at the highest level, for Mr Lee’s immediate return to Hong Kong. We urge the Chinese and Hong Kong SAR governments to reassure the people of Hong Kong that law enforcement in the Hong Kong SAR is exclusively the responsibility of the Hong Kong SAR authorities, and that the fundamental rights and freedoms of Hong Kong residents will continue to be fully protected, and respected by all, in accordance with the Joint Declaration and Basic Law.

A significant area of interest in previous reports in this series has been the issue of constitutional reform in Hong Kong. I discussed this with the Chief Executive during his visit to London. The UK Government has consistently taken the view that the best way to secure the future of ‘One Country, Two Systems’ is through a transition to universal suffrage which meets the aspirations of the people of Hong Kong, within the parameters of the Basic Law. The historically high turnout rate for the District Council elections in November shows that Hong Kong people’s aspiration for democratic reform remains undiminished, despite the unsuccessful conclusion of the political reform process. The UK Government judges that constitutional reform will help, not hinder, the Hong Kong SAR Government to deliver. A more democratic and accountable system of government would help strengthen those rights and freedoms which have come under increasing pressure over the past two years. It is also important for the effective functioning of government in Hong Kong, without which some of the Government’s most important economic and social policies are likely to encounter continuing obstacles. We encourage all parties to play their part in rebuilding constructive dialogue to pave the way for the resumption of the process at the earliest opportunity.

INTRODUCTION

This series of six-monthly reports reflects the British Government's continuing interest in developments in Hong Kong and our commitment to the faithful implementation of the 1984 Sino–British Joint Declaration on Hong Kong. In this Declaration, the Chinese Government undertook that the Hong Kong Special Administrative Region (SAR) would enjoy a high degree of autonomy, except in foreign and defence affairs, and that the continuation of Hong Kong's social and economic systems, lifestyles, rights and freedoms would be guaranteed.

CONSTITUTIONAL DEVELOPMENTS

Despite the unsuccessful conclusion of the constitutional reform process earlier in the year, Hong Kong people continued to be highly politically engaged throughout the reporting period, with new political groups contesting the District Council elections in November and record numbers voting.

District Council elections

The District Council elections were held on 22 November. The elections were the first since the abolition of all appointed members in accordance with an electoral reform package passed in 2010, which also resulted in an increase in the total number of District Councillors. Some 935 candidates stood for 431 directly elected seats, though 68 seats representing approximately 570,000 registered voters were uncontested.

A total of 1.4 million votes were cast, with a turnout of 47 per cent. This surpassed the previous record of 44.1 per cent set in 2003. Chief Executive CY Leung said: "Hong Kong's all-time-high voter turnout showed that the Councils have never been more important."

Pro-establishment parties retained overall control of all 18 Districts, while pan-democratic parties retained their existing share of approximately 25 per cent of the seats. Some recently established groups successfully contested seats, including the

'Umbrella Soldiers', so called because of their association with the Occupy Central protests of 2014, who won eight seats, and the Neo Democrats, established in 2010, who doubled their number of District Councillors to 15.

Electoral irregularities

In the months preceding the elections, the media reported a number of cases of suspected voter fraud. Justice Barnabas Fung, Chairman of the Electoral Affairs Commission (EAC), said: "In the 2011 District Council elections, there were suspicions of voters vote-rigging or using inaccurate addresses. It transpired that most of them involved changes of address that had not been reported to the Registration Office." Fung acknowledged that in advance of the 2015 elections some voters had registered with unusual addresses, but said this was due to "housing issues". Fung referenced the UN Convention on Human Rights that says no person should be stripped of voting rights because of their address, or lack of one. He said that the EAC had "thoroughly investigated" each of the unusual addresses and had determined that there were valid grounds to accept some designated places as a person's residence.

Changes in the political landscape

During the reporting period, a number of new political forces have come to the fore. Following the District Council elections, Chief Executive CY Leung said that he was glad so many young candidates had participated in the election and that he would like to invite candidates, whether successful or not and of all political affiliations, to join various Hong Kong SAR Government working groups and committees.

Ronny Tong resigned as a legislator and Civic Party member on 1 October. Speaking to Radio Television Hong Kong (RTHK) in September, Tong said that he did not intend to form any new political party and would focus on his new think tank 'Path of Democracy' aiming to seek a "third path" for Hong Kong, promoting dialogue and democracy.

Separately, on 28 September, several former Democratic Party members announced they would set up a new group in early 2016 with the intention of finding a “third way” and adopting a moderate stance distinct from both pro-establishment and pro-democracy camps.

Political reform

Following his meeting with Chief Executive CY Leung on 15 October 2015, Secretary of State for Foreign and Commonwealth Affairs The Rt. Hon. Philip Hammond MP said in a press statement:

“The UK is firmly committed to maintaining Hong Kong’s prosperity, stability and way of life, and supports a rebuilding of trust and a renewed dialogue towards democratic reform, in line with the Basic Law.”

During the reporting period, the Hong Kong SAR Government reiterated that the electoral reform process, which ended on 18 June when the Legislative Council (LegCo) rejected the Hong Kong SAR Government proposal for amending the electoral method for the 2017 Chief Executive election, would not be restarted during the current term of the Chief Executive.

Speaking on 1 July, HKSAR Establishment Day, Chief Executive CY Leung said that democracy alone was not a panacea for the SAR’s economic and livelihood concerns and warned legislators that continued filibusters and delaying tactics could harm the city’s progress. Leung repeated that he intended to focus on Hong Kong’s housing and poverty issues.

The UK believes that universal suffrage is the best way to guarantee Hong Kong’s stability and prosperity and to build confidence in the future of ‘One Country, Two Systems’. We will continue to encourage Hong Kong to maintain momentum towards political reform and will monitor developments closely.

GOVERNANCE

Relations between the executive and legislature

In our last report, we expressed concern that the strain between the executive and legislature risked damaging Hong Kong's traditionally strong governance. This strain continued to be in evidence during the current reporting period, which was characterised by hostility between pro-establishment and pan-democratic legislators.

The legislative session opened with pro-establishment legislators securing chairmanship and deputy chairmanship for LegCo's House and Finance Committees. This ended a long-standing convention under which the deputy chairmanship of the House Committee has been held by a pan-democratic legislator. It followed an announcement by pan-democrats that they would contest the chairmanship and vice-chairmanship of every LegCo committee, rather than accept an offer by the pro-establishment camp about how to divide chairmanships that would not reflect the two camps' respective share of LegCo seats.

Pan-democrats said this would enable them to better monitor government. Labour Party legislator Cyd Ho said: "We shall step up our effort to monitor the Government in order to stop the pro-establishment camp from helping the Government push through controversial projects."

This followed a proposal at the end of the previous legislative session to debate a motion of no confidence in LegCo President Jasper Tsang. People Power legislator Ray Chan moved the motion in response to leaked messages that appeared to show Tsang giving tactical direction to pro-establishment lawmakers during the debate on constitutional reform. Chan, with the support of a number of other pan-democratic legislators, argued that Tsang had breached the requirement for the President to be impartial. The House Committee voted down the proposed motion.

Finance Committee

As we have noted in previous reports, the pan-democratic legislators' filibuster and non-cooperation in LegCo, especially prior to the June constitutional reform, caused delays to funding for some government projects. In late July though, it was reported that the Finance Committee approved 63 public works projects worth HK\$107 billion in the legislative year 2014/15, three times more than the previous year. Of 100 funding proposals considered, 98 were approved. The two rejected proposals both related to the Innovation and Technology Bureau (ITB).

On 6 November, LegCo's new Finance Committee finally approved funding for the ITB, first proposed by Chief Executive CY Leung when he took office in 2012. Previous attempts to secure the funding failed in large part as a result of pan-democratic legislators' filibustering. Legislators Leung Kwok-hung, Albert Chan and Ray Chan again attempted to filibuster the ITB funding motion, but were prevented from doing so by Finance Committee Chair Chan Kin-por who rejected over 100 amendments.

Following the approval of the ITB funding, the Finance Committee turned its attention to funding for two long-running, controversial infrastructure projects: the High Speed Railway and the Hong Kong-Macau-Zhuhai Bridge. In early December, MTR Corporation Limited (Mass Transit Railway) and the Hong Kong SAR Government announced that the HK\$84.42 billion high-speed rail project connecting Hong Kong to Guangzhou would be further delayed until late 2018 and required an extra HK\$19.6 billion in funding. Following widespread criticism over the delays and cost, Transport Secretary Anthony Cheung issued an apology and said he could "totally understand the public's and the legislature's dissatisfaction with the delays and cost increases".

Pan-democrats raised concerns about Finance Committee Chair Chan Kin-por's approach to debate, citing his decision to reject many amendments put forward during the debate on the ITB. They argued that it was essential for him to allow them to fully question officials on the reason behind delays and increased costs. Chan said he would end the debate when it came to the committee (expected in 2016) "if

legislators' speeches are starting to become irrelevant or repetitive, if they are not using their time to ask questions but to criticise [officials] and to express their personal opinion".

Copyright (Amendment) Bill

A further issue of controversy during the reporting period centred on the Copyright (Amendment) Bill, an amended version of a bill first introduced by the Hong Kong SAR Government in 2011 and withdrawn after widespread criticism. Dubbed "Article 23 of the Internet", critics including internet freedom advocacy groups and some legislators have expressed concern that the draft bill would not sufficiently protect freedom of expression. Secretary for Commerce and Economic Development Gregory So said that he had been working with legislators to address their concerns and that the bill would "not restrict any freedom of speech" and that the Hong Kong SAR Government was "doing the related work in accordance with the international standard".

Speaking on 7 December, Chief Executive CY Leung said: "We are willing to listen to the opinions of various sectors of society, including those lawmakers who do not support the bill. But staging a filibuster will get you nowhere."

Significant media debate on the bill continued in December. The final Legislative Assembly session of the year on 18 December ended during a debate of a motion to adjourn debate of the second reading brought by Labour Party legislator Cyd Ho, who said society needed more time to understand the implications of the bill.

'ONE COUNTRY, TWO SYSTEMS'

Chief Executive's duty visit and speeches on 'One Country, Two Systems'

During the reporting year, senior Central People's Government (CPG) officials underlined their ongoing commitment to implementing the 'One Country, Two Systems' policy on a number of occasions. During a meeting with Chief Executive CY Leung on 23 December, President Xi Jinping said that the CPG's adherence to

the principle would not change or waver, and efforts must be made to ensure that the principle was comprehensively and correctly followed out in Hong Kong without any distortion.

The media carried extensive coverage of the seating arrangements for meetings held during the duty visit, under which the Chief Executive was no longer seated side by side with state leaders as in previous years. Commentators said this change was designed to highlight the subordinate position of Hong Kong – that the ‘Two Systems’ came beneath the ‘One Country’. CY Leung himself commented that the revised seating arrangements reflected “the constitutional position of Hong Kong and the central authorities”. Leader of the Democratic Party Emily Lau said the change would serve to fuel fears about the future of ‘One Country, Two Systems’.

Earlier in the year, during his annual 1 October speech, Leung underlined the importance for Hong Kong of close ties between the mainland and the city’s business, financial and professional sectors. Leung also said: “In view of the rapid development of our country, all people in Hong Kong, especially politicians and young people, need to gain a comprehensive understanding of the country’s development from different perspectives, both for the good of the country and for their own careers.”

Also in October, during her first visit to Hong Kong, the head of the United Front Work Department, Sun Chunlan, said that she hoped the young people of Hong Kong would “have a stronger sense of responsibility and mission to the country’s development” at an event to commemorate the 70th anniversary of the end of World War II.

The high-speed rail project was also the subject of controversy because of the proposal to have a joint Hong Kong–mainland checkpoint arrangement at the West Kowloon Terminus. Pan-democrats have argued that this would breach Article 18 of the Basic Law. CY Leung said that co-location arrangements were necessary, that similar arrangements existed elsewhere and that ‘One Country, Two Systems’ would not be damaged. Secretary for Justice Rimsky Yuen said “no final decision had been reached”.

Implementation of ‘One Country, Two Systems’

The reporting period saw extensive coverage and heated debate following comments by a number of high-profile officials, politicians and academics on the implementation of ‘One Country, Two Systems’.

On 30 August in an interview with *South China Morning Post*, LegCo President Jasper Tsang Yok-sing called for a review of the implementation of ‘One Country, Two Systems’ to identify the reasons for setbacks such as failure of electoral reform. Tsang said the White Paper on ‘One Country, Two Systems’ issued by the CPG on 10 June 2014 had failed to review its implementation, instead it had “unavoidably sparked backlash among some Hong Kong people”. He concluded that the Chief Executive elected in 2017 should set up a platform to discuss how to relaunch the electoral reform process and the future of ‘One Country, Two Systems’ after 2047.

Constitutional framework

Two speeches concerning the constitutional framework caused particular controversy. The first was given by Central Government Liaison Office Director Zhang Xiaoming on 12 September at an event to mark the 25th anniversary of the promulgation of the Basic Law. In his speech, entitled ‘The Correct Understanding of Hong Kong’s Political System’, Zhang highlighted key characteristics of Hong Kong’s executive-led political system, including a high degree of autonomy, subject to the authority of the CPG.

Two aspects caused concern. First, although Zhang acknowledged that the Basic Law provided for judicial independence, he argued that the existence of the executive, legislature and judiciary did not mean the separation of powers could be applied to Hong Kong in its entirety. Second, he described the Chief Executive’s special legal position as ‘transcending’ the executive, legislature and judiciary.

In a statement on 12 September, the Hong Kong Bar Association (HKBA) said:

“The HKBA must emphatically point out that the relationship between the Executive, the Legislature and the Judiciary in the Hong Kong SAR and their respective powers and duties are all clearly defined and stipulated in the Basic Law. The superior courts of the Hong Kong SAR (including the Court of Final Appeal) have repeatedly affirmed that in applying and construing the provisions of the Basic Law in the adjudication of cases, the Hong Kong SAR courts will apply the principles and doctrines embedded in common law, including the doctrine of ‘separation of powers’. Accordingly, the HKBA firmly believes the common law principle of ‘separation of powers’ will continue to be implemented within the constitutional framework of the Basic Law.”

In a joint statement on 14 September, pan-democratic legislators urged the Chief Executive to reiterate in public that he observed the laws of Hong Kong and was subject to a system of checks and balances of the legislature and judiciary. Others, including Liberal Party Honorary Chairman James Tien underlined that the speech did not change the provisions of the Basic Law, which enshrined judicial independence and governed the relationship between the executive, legislature and judiciary.

On 14 September, Secretary for Justice Rimsky Yuen said that Mr Zhang’s speech emphasised that both the Chief Executive and the Hong Kong SAR Government must abide by the law and be accountable to the legislature, which meant the Chief Executive had no dominant power. On 15 September, Chief Executive CY Leung said the speech had been taken out of context. Leung said: “Hong Kong is just a local government, without complete administrative and legislative powers, so the city’s actual situation must be taken into account when it comes to the separation of powers concept that is adopted by other countries.”

On 16 September, Chief Justice Geoffrey Ma said: “The first point is judicial independence. This is specified in the Basic Law in three separate places. I would ask people to read Articles 2, 19 and 85. The second point deals with equality before the law. This is Article 25 of the Basic Law which prescribes everybody is equal before the law without exceptions. This applies to everyone.”

The second speech, one week later, was given by former CPG official and Chairman of the Chinese Association of Hong Kong and Macau Studies Chen Zuo'er at a forum on Hong Kong's role in China's national development. Chen said that Hong Kong's failure to "de-colonise in accordance with the law" and a "resurgence of de-Sinofication" had "harmed the 'One Country, Two Systems' principle". Chen said Beijing's basic policy towards Hong Kong would remain unchanged. Core values including the rule of law were "valuable assets and successful pillars of Hong Kong's economic and social development".

Many, including pan-democratic legislators, expressed concern. Alan Leong said the remarks could only have been meant to cause "harm and destruction". Chief Executive CY Leung responded: "Hong Kong, as a Special Administrative Region, has a high degree of autonomy but, at the same time, it has responsibilities to the country as a whole... it is a question of following the Basic Law and striking a balance between rights and duties and also our high degree of autonomy and our responsibilities to the country." Secretary for Justice Rimsky Yuen said that from the legal perspective the Basic Law was the only standard; it had specified the laws and system applicable to Hong Kong since its reversion to China's sovereignty.

On 29 October, during a visit to the United States, Yuen amplified this point before an international audience. He noted that that the debates and controversies that Hong Kong had experienced notwithstanding, "the design and operation of the Basic Law as well as the implementation of the 'One Country, Two Systems' in the Hong Kong Special Administrative Region have proved to be a success and have been so regarded by the international community".

Missing booksellers

In November, it was reported that four men associated with Causeway Bay Books and the Mighty Current Publishing House, a bookshop and publishing house known for printing material critical of senior mainland political leaders, had gone missing. Gui Minhui, a Chinese-born Swedish national and the owner of Causeway Bay Books and the Mighty Current Publishing House, reportedly went missing from his apartment in Pattaya, Thailand around the middle of October when he last

communicated with his colleagues in Hong Kong. Lam Wing-kei, Lui Bo and Cheung Ji-ping were all employees of the publishing house and were last seen around mid-October in either mainland China or Hong Kong, but since then nothing has been heard of them. Details of the case remained unconfirmed at the time of writing though media speculation suggested the four had been detained by mainland authorities.

Immediately following the disappearances, civil society groups expressed concern. Amnesty International said: "If the information is true, it is a deeply troubling case and it will have serious implications about the deterioration of freedom of expression in Hong Kong."

On 30 December, a fifth man associated with Causeway Bay Books and Mighty Current went missing, Lee Po, a British citizen. At the time of writing, details of the case were still emerging. The implications of this issue are covered in the Foreword.

Officials in London, at our Consulate General in Hong Kong and Embassy in Beijing continue to seek information on Lee Po from the Hong Kong SAR Government and CPG authorities.

National security legislation

Article 23 of the Basic Law

Article 23 of the Basic Law says: "The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organisations or bodies from conducting political activities in the Region, and to prohibit political organisations or bodies of the Region from establishing ties with foreign political organisations or bodies."

The Hong Kong SAR Government put forward a draft bill to enact Article 23 in 2003. The bill attracted fierce criticism, resulting in widespread controversy and mass protests. It was shelved on 5 September 2003. The laws envisaged by Article 23 have not been implemented.

On 1 July, the Chinese National People's Congress Standing Committee passed the new National Security Law with a specific reference to Hong Kong (and Macau). This is the first time that national security-related legislation has singled out Hong Kong (and Macau).

Article 11 of the law notes that “safeguarding China’s sovereignty and territorial integrity is the common obligation of all Chinese people, including those in Hong Kong and Macau as well as Taiwan”. This point is reiterated in Article 40, which states: “The Special Administrative Region of Hong Kong and Macau must fulfil their responsibility to safeguard national security.” Although the revised law does not apply to Hong Kong under the ‘One Country, Two Systems’ model, some commentators and pro-democracy supporters have raised concerns that the law could damage the principle of ‘One Country, Two Systems’, threaten basic rights and freedoms and exert pressure on the Hong Kong SAR Government to enact the controversial Article 23 of the Basic Law.

Speaking on the same day, Chief Executive CY Leung reiterated that Article 23 would not be enacted during his term and a Hong Kong SAR Government statement said that while Hong Kong had a responsibility to safeguard national security, this would be fulfilled through local legislation. Former Secretary for Justice Elsie Leung said of the new law: “The national security law is not going to apply to Hong Kong as it is not included in Annex 3 [of the Basic Law].”

LEGAL AND JUDICIARY

On 16 December, Secretary for Security TK Lai updated LegCo on the number of people facing legal proceedings related to the lengthy Occupy Central protests that took place in late 2014: “During the incident, 955 persons were arrested by the police for various alleged offences, and another 48 persons were arrested after the illegal occupation incident. As at 30 November this year, a total of 216 persons have undergone, are undergoing or will undergo, judicial proceedings. Amongst them, 177 persons have gone through the judicial process and 114 of them have to bear legal consequences, including 74 who were convicted and 40 who were bound over upon conclusion of court proceedings.”

The pace of legal proceedings against Occupy protestors and accusations of politicisation were much debated during the reporting period. Critics cited the case of Ken Tsang as illustrative. As we have reported previously, Tsang was the protestor shown in footage aired in October 2014, being restrained and allegedly beaten by seven police officers. On 15 October, a year to the day after the incident, Tsang was arrested on charges of assaulting and obstructing the police for an incident that happened on the same day. The officers shown in the footage were also formally charged.

On 16 October, Secretary for Justice Rimsky Yuen said: “Any suggestion that the prosecution of Mr Tsang is to blacken his character or his reputation is absolutely groundless,” before stating that politics had not been a consideration when prosecutors decided to press charges, nor was it a factor in why it had taken a year to press charges.

In November, Justice Kevin Zervos criticised Department of Justice prosecutors for moving too slowly during the trial of six alleged foreign drug mules. Following more than a year of investigation, charges of drug trafficking were withdrawn. Justice Zervos said in court: “Never have the words been truer than now that justice delayed is justice denied. The decision to terminate these six cases...has taken too long.”

On 14 December, former Chief Justice Andrew Li defended judicial reviews as “fundamental to the rule of law”. Li was responding to retired Court of Final Appeal Judge Henry Litton who had described judicial reviews as “misused” and Hong Kong’s legal system as “drowning in irrelevance” in a speech at the Foreign Correspondents’ Club (FCC) earlier in the month. In his rebuttal, Li said that he was also concerned by the rising number of reviews, but noted that the threshold for granting leave for judicial review had been raised in 2007 resulting in fewer than half of judicial review applications being granted leave to proceed between 2008 and 2013.

On 18 December, former Chief Executive Donald Tsang pleaded not guilty to two counts of misconduct in public office. The Independent Commission Against Corruption said the charges related to Tsang’s alleged failure to disclose his intent to

lease a flat in Shenzhen owned by an investor in a broadcaster that was seeking a license from the Hong Kong SAR Government, and his failure to declare that an architect he had proposed for a government award was employed as a designer on the flat. Following Tsang's plea, the case was referred to the High Court for trial – a date had yet to be set at the time of writing. Tsang was released on bail.

United Nations Committee Against Torture

On 9 December, the United Nations Committee Against Torture (UNCAT) published five recommendations for the Hong Kong SAR Government. The report followed Hong Kong's periodic report, which was submitted by the Hong Kong SAR Government in November. UNCAT had at the time raised concerns over the police's use of force during the Occupy protests. The recommendations were:

- a) Conduct an independent investigation into the allegations of excessive use of force by the police and anti-demonstrators during the so-called "Umbrella or Occupy Movement" protest in 2014;
- b) Duly prosecute alleged perpetrators, including those officers who were complicit in or allowed those acts to occur, and ensure that those found guilty are convicted with adequate penalties;
- c) Provide full redress to the victims, including fair and adequate compensation;
- d) Publicise the Police General Orders and related guidelines on the use of force and make sure that they are in compliance with international standards;
- e) Strengthen ongoing training for all law enforcement officers on the absolute prohibition of torture and on international standards on the use of force, as well as on their liability in the event of excessive use of force.

A Hong Kong SAR Government statement in response said: "The police have strict guidelines on the use of force and stringent training courses. The force to be used by police officers shall be the minimum force necessary according to the circumstances at the time and for achieving a lawful purpose."

BASIC RIGHTS AND FREEDOMS

Media freedoms

On 12 July, the Hong Kong Journalists Association, (HKJA) published its annual report, *Journalists caught between two fires: Hong Kong media faces serious harassment and self-censorship*. The report said that journalists in Hong Kong were facing both external and internal pressures as they went about their work. The report alleged that during the Occupy protests, over 30 journalists had suffered injuries as a result of encounters with both protestors and police. They had also become targets during some “localist” protests. HKJA’s Press Freedom Index showed that journalists were worried about increased violence, particularly coming so soon after the attack on Kevin Lau (reported in the January – June 2014 Six-Monthly Report).

Another area of concern was over the “internal pressure in the form of escalating self-censorship in order to comply with establishment viewpoints”. Controversial appointments to editorial positions and the departure of senior newsroom staff from various papers added to this concern.

Journalists also pointed to the attitude of government officials, including the Chief Executive, to media enquiries, with the Press Freedom Index suggesting that 71 per cent of journalists believed the Hong Kong SAR Government contributed to the suppression of press freedom.

HKJA called upon the Hong Kong SAR Government to “take all possible measures to ensure that journalists are able to carry out their legitimate reporting duties, especially during protests” and for the police “to be given clear instructions on how to handle journalists with respect”. HKJA highlighted too the Hong Kong SAR Government’s increasing practice of making major announcements through blogs and other “one-way” forms of communication rather than holding press conferences and called on it to increase transparency by enacting freedom of information and archive laws. This criticism appeared to be borne out when in November it was reported that some digital media outlets were routinely blocked from attending government press conferences and from accessing government press releases as

they were published through the Government Information System, on the grounds that they do not have a print edition.

On 11 December, it was announced that Jack Ma's Alibaba Group would buy the *South China Morning Post*, Hong Kong's major English-language newspaper. A number of analysts raised concerns over the effect on media plurality, with many of Hong Kong's papers and magazines now owned by mainland-based companies.

Executive Vice Chairman of Alibaba Group Joseph Tsai said that the company would not influence the paper's China coverage which he said "should be balanced and fair" before criticising mainstream western media for reporting on China with a "tainted" view. Some commentators raised concerns that the paper's editorial independence would continue to decline, a process critics contend began under current owner Robert Kuok.

On 24 December, two *Apple Daily* reporters were detained by Hong Kong police on suspicion of loitering following a complaint by Education Secretary Eddie Ng. In the days following, it emerged that Ng had not complained to police directly, instead contacting the Security Bureau through his own department. HKJA described this as "a move calculated to exert more pressure on police". Legislators from both camps criticised Ng, accusing him of abusing his power. *Apple Daily* confirmed that the two reporters had been following Ng since 18 December in order to see how he handled questions at public events on the Territory-wide System Assessment, the annual process aimed at assessing Hong Kong students' levels of learning.

We will continue to monitor this issue closely in future reports as freedom of the press is one of the fundamental freedoms protected by the Joint Declaration and enshrined in the Basic Law.

Marches and demonstrations

During the reporting period, a number of marches and demonstrations took place. Of note:

Organisers said 48,000 people took part in the annual 1 July (HKSAR Establishment Day) march, while police estimated the crowd was 19,000 strong at its peak (in comparison with approximately 92,000 at its peak in 2014). Commentators suggested that the attendance was further evidence that younger pro-democracy advocates were increasingly frustrated with “traditional” forms of protest, and believed that annual rallies and marches had achieved little. Other analysis suggested that coming so soon after the veto of the reform bill, few people saw the point of the march.

On 2 August, simultaneous rallies – one supporting the Hong Kong police, a second accusing them of abusing their power – took place. The pro-police rally, organised by the Justice Alliance, intended to remind people of the police’s hard work during the Occupy protests. It was attended by approximately 100 people. At the same time, localist group Civic Passion staged a rally accusing Hong Kong police of abusing their power during the protests. Police kept the crowds apart, though both groups shouted insults at each other.

On 28 September, a crowd of around 900 people gathered near Tamar to mark the one-year anniversary of the start of the Occupy protests. The crowd raised yellow umbrellas and staged a five-minute silence.

On 7 November, an estimated 10,000 people, the most in Hong Kong history, took part in the annual Pride parade. Before the march began representatives from civil society, the Consular Corps and business addressed the crowd, advocating lesbian, gay, bisexual and transgender (LGBT) equality in Hong Kong. The limited number of legislators and senior Hong Kong SAR Government figures that attended the parade was notable.

Equality

On 23 September, the Hong Kong think tank The Zubin Foundation in partnership with the Centre for Comparative and Public Law (CCPL), the Faculty of Law, The University of Hong Kong published a report, *The Status of Ethnic Minorities in Hong Kong, 1997 to 2014*. The report found that ethnic minorities in Hong Kong were less

educated, tended to be overwhelmingly in elementary occupations, had lower income levels and were much more likely to be poor. Noting that many of these issues were linked, the report called for the Hong Kong SAR Government to set up a high-level committee to look at ethnic minorities and consider more ethnic minority representation on government bodies.

Hong Kong's lack of recognition of same-sex marriage continued to be a subject of debate during the reporting period. In late December, a senior Hong Kong civil servant applied to the High Court for Judicial review after both the Civil Service Bureau and Inland Revenue refused to recognise his same-sex marriage. The applicant, who married his partner in New Zealand, challenged the Hong Kong SAR Government's refusal to recognise a valid marriage claiming that it had violated the Basic Law, Sex Discrimination Ordinance and the Code of Practice against Discrimination in Employment on the Ground of Sexual Orientation. The Civil Service Bureau, Inland Revenue and Equal Opportunities Commission told the media it would not be appropriate to comment as legal proceedings had begun.

Academic freedom and institutional autonomy

Article 137 of the Basic Law

Educational institutions of all kinds may retain their autonomy and enjoy academic freedom. They may continue to recruit staff and use teaching materials from outside the HKSAR. Schools run by religious organisations may continue to provide religious education including courses in religion.

In our last six-monthly report, we noted that concerns had been raised over possible pressure being applied to Hong Kong's universities, in particular over appointments and policy. These concerns continued to be raised during the reporting period, primarily centred on the long-running question of Professor Johannes Chan's appointment as Pro Vice Chancellor at Hong Kong University.

Chan had been unanimously recommended for the position by the university's search committee. On 1 July, it was announced that following a reportedly heated Governing Council meeting, the Council had voted to defer the appointment of Chan. The media reported that four pro-government members had spoken in favour of deferring the appointment, including Arthur Li and legislators Martin Liao and Abraham Razack, while others, including university Vice Chancellor Peter Mathieson disagreed with further delay. In late July, students forced their way into a closed-door meeting of the Governing Council after learning the Council would not change their decision to defer the appointment. Li, who some commentators suggested had played a significant role in the blocking of Chan's appointment, told the media: "Students don't like me maybe because I'm appointed by Leung Chun-ying and they don't like him," before describing their action as "Hong Kong's Cultural Revolution".

On 1 September, several thousand University of Hong Kong (HKU) alumni attended an extraordinary general meeting of the convocation at Wanchai Convention Centre to debate the delayed appointment. Speakers at the meeting, selected by ballot, largely expressed anger at the deferred appointment of Chan. Following the meeting, the Education Bureau issued a statement: "We appeal to the community not to impose pressure on the Council, and not to hinder the normal functioning of the university and the Council."

The bureau also said the Chief Executive – as Chancellor – did not interfere with academic freedom and institutional autonomy, nor did he participate in the selection of staff. The bureau went on to defend the existing system, saying it was effective, and appealed to different stakeholders to respect and comply with the law.

On 29 September, the HKU Governing Council voted 12-8 against the search committee's recommendation to appoint Professor Chan. The decision prompted criticism from students and alumni who condemned it as politically motivated. Responding to the decision not to appoint him, Professor Chan thanked his supporters and said: "As I have said many times before, the issue of appointment of the Pro Vice Chancellor is really not about me. It is about the threats to the autonomy, values and freedoms that have made HKU a world-class, vibrant university." He continued: "The decision of the Council shows that we still have a lot

of work to do to preserve academic freedom and protect the autonomy of the university.”

In a statement released immediately after the Council meeting, HKU Student Union President Billy Fung, a member of the Council, condemned the decision and, in breach of the Council’s confidentiality rules, quoted some of the discussion. His decision to release this confidential information became the focus of widespread debate. Council member and HKU Professor Lo Chung-mau released a statement accusing Fung of using “dishonest means to achieve his aims” while Council Chairman Edward Leong criticised the “deplorable action” by Fung. Fung defended his action, telling RTHK that the open, transparent operation of the Council was more important than a confidentiality clause.

In late October, commercial radio broadcast two audio recordings of the Council meeting that confirmed Fung’s account of the meeting. On them, Arthur Li was heard suggesting Chan had been recommended because he was “a nice guy”, and questioning his lack of a doctoral degree. In the days following the broadcast, HKU obtained an interim court order preventing publication of the recordings, which prompted widespread criticism from both academics and media organisations. The incident caused much debate during the reporting period, with questions of academic freedom and institutional autonomy, both explicitly guaranteed in Articles 34 and 137 of the Basic Law, being discussed in the media.

Some commentators suggested reviewing the system under which the Chief Executive is Chancellor of all publicly funded universities. While speaking at the FCC in December, Professor Chan argued that a key principle of academic freedom was that academics could, and should, interact with the wider community, whether about science or issues such as law reform. An important part of academia was analysing and critiquing public policy. If academics were prevented from, or feared, doing this it amounted to an attack on academic freedom.

Commenting on the issue in an article published on 26 October, the Chief Executive’s Information Coordinator Andrew Fung said the governance of universities had been hotly debated in recent months but it had nothing to do with

academic freedom. He said people should not talk about institutional autonomy without looking at it from a wider perspective, like the relevant university ordinances. He added that Hong Kong was a city under the rule of law and all issues should be conducted according to the laws, and that the Government has power and responsibilities to manage the universities as they are all publicly funded.

In a statement issued at 12:30 am on 31 December, the Chief Executive's office confirmed that Arthur Li had been appointed as Chairman of the Governing Council of the University of Hong Kong. As Chair, Li is responsible for setting the agenda for Council meetings.

Academic freedom and autonomy of educational institutions is one of the fundamental freedoms protected by the Joint Declaration and enshrined in the Basic Law. As we reported in our last report, the issue of appointments to publicly funded universities continues to be a subject of intense debate. We will continue to monitor this issue in future reports.

UK-HONG KONG BILATERAL RELATIONS

During the reporting period, a number of high-level visits took place:

In July, Foreign and Commonwealth Office Minister The Rt. Hon. Hugo Swire MP visited Hong Kong for meetings with the Chief Executive and other members of the Hong Kong SAR Government legislators and representatives of civil society and business. Mr Swire said: "I am delighted to be back in Hong Kong – it is one of the UK's most important international partners, and we remain closely connected by business, cultural, educational, and economic and other ties." Also in July, First Minister of Scotland Nicola Sturgeon MSP visited Hong Kong and met with the Chief Secretary, Carrie Lam. The Economic Secretary to the Treasury, Harriett Baldwin MP, and the Lord Mayor of London, Lord Mountevans, visited in September and the Minister of State for Trade and Investment, The Rt. Hon. Lord Maude, and the Chief Executive of Manchester City Council, Sir Howard Bernstein, in October. November saw the Minister of State for Justice, Lord Faulks, in Hong Kong as part of the 800th anniversary of Magna Carta.

Chief Executive CY Leung visited the UK in October for meetings with the Foreign Secretary The Rt. Hon. Philip Hammond MP and the Minister of State The Rt. Hon. Hugo Swire MP. During this important visit, the Chief Executive was able to discuss cooperation on global health, finance and education. Following his meeting with the Chief Executive, Foreign Secretary Philip Hammond MP said: “Hong Kong and the UK share the same commitment to making global trade easier and more transparent. As two of the most important global financial centres, London and Hong Kong are pivotal to the world economy. We discussed the Chief Executive’s vision for Hong Kong as an international gateway to mainland China and Chinese investment in the UK, already the primary European destination for Chinese Foreign Direct Investment.”

During the visit, the Hong Kong Secretary for Food and Health, Dr Ko Wing-man, who was accompanying the Chief Executive, met with the Parliament Under Secretary of State for Public Health, Jane Ellison MP, and they signed a Memorandum of Understanding on health cooperation.

BILATERAL TRADE AND INVESTMENT

During the period January to September 2015, UK exports of goods to Hong Kong were £4.44bn, down 5.8 per cent on the same period of 2014.¹ UK imports of goods from Hong Kong were £5.04bn, an 11.9 per cent fall year on year. There was a 4.9 per cent fall year on year in the value of exports of goods to mainland China passing through Hong Kong, to approximately £0.79bn.

In the first three quarters of 2015/16, UK Trade & Investment (UKTI) supported UK companies in securing over £1.1bn of business. UK companies were engaged in all of the major infrastructure programmes in Hong Kong with contracts in rail, airports, a 42km bridge, healthcare, a South Bank-style cultural district, a sports stadium and urban regeneration. As well as securing infrastructure contracts, UK companies also gained business in new sectors including security, food and drink and education. Hong Kong remains a very strong market for UK companies to do business in (over

¹ Source: United Kingdom ONS Statistical Bulletin: UK Trade, September 2015

630 UK companies have offices there²) and we are working with the Hong Kong SAR Government to ensure that barriers to trade and investment are removed. However, as we have previously reported, continued filibustering in LegCo has resulted in a significant slowdown in the allocation of funds for both new and existing infrastructure projects. This ongoing issue creates challenges for UK companies in the market. UK investment in Hong Kong (conservatively valued at £33bn) makes up about 35 per cent of total UK investment in Asia.

The UK remained the number one European destination for outward direct investment from Hong Kong, with a stock value of over £12.75bn (2014), according to the Office for National Statistics (ONS). This was at a time when Hong Kong became the second-largest source of foreign direct investment (FDI) globally in 2014, after the United States. This increase in FDI also shows the important role Hong Kong plays in mainland Chinese outbound investment. Hong Kong Trade and Development Council (HKTDC) reported that almost 60 per cent of Chinese investment used Hong Kong as a conduit, 78 per cent of Hong Kong outbound investment overall.

Around the time of the state visit, a number of major announcements were made that complement the trend of Hong Kong and mainland Chinese companies choosing to invest in the UK. The Peterson Group, a Hong Kong property developer is partnering with UK developer Trilogy Property in a £300m renovation of the 375,000 sq ft Great Northern Warehouse. G-Suite, a property developer based in Manchester, owned by Hong Kong executives, is also regenerating Warwick Mill in Rochdale. This £50m project will turn the Grade II listed building into a marketplace for Chinese and UK SMEs to trade, innovate and grow, creating over 200 jobs.

China Regenerative Medicine International Limited invested £7.5m in Oxford University, alongside China Construction Bank International (CCBI), which invested £1.5m, to create a new technology centre to undertake translational research into regenerative medicine and tissue engineering. Hong Kong-based CCBI's mainland

² Source: Hong Kong Census and Statistics Department, Tables 133, 134 and 206 updated 26 October 2015

parent company, China Construction Bank, also announced a potential £6bn of future investment to commercialise the technology.

ECONOMY

In the second half of 2015, Hong Kong was affected by the tepid global economy, as well as slowdown in China. Hong Kong's GDP growth slowed from 2.8 per cent in the second quarter to 2.3 per cent in the third quarter of 2015, with exports of goods and services remaining weak. Nevertheless, Hong Kong's economic fundamentals remained sound – inflation stabilised at 2.4 per cent in November 2015 and employment stayed low at 3.3 per cent in October. With overall growth of around 2.5 per cent during the first three quarters, the government forecasted that growth was around 2.4 per cent for 2015 as a whole. This compares with growth of 2.3 per cent (yoy) in 2014.

Total goods exports declined 3.2 per cent in the third quarter, compared with the same period last year. External demand was generally weak where exports of goods to both advanced economies and almost all Asian markets fell. Meanwhile, exports of services also dropped by 1.3 per cent in the third quarter, affected by weak regional trade, finance and tourist flows.

Hong Kong's property market slowed with transaction volumes falling 13 per cent in the third quarter of 2015. The Government explained that potential buyers were concerned about the normalisation of interest rates by the US Federal Reserve. As a result, overall flat prices slowed and grew only 2 per cent in the third quarter. Nevertheless, Hong Kong housing prices remained expensive with overall prices still exceeding the 1997 peak by 77 per cent. On 17 December, the Hong Kong Monetary Authority adjusted the base rate upwards by 25 basis points to 0.75 per cent following the US Federal Reserve's rate hike announcement on 16 December.

Policy

On 27 November, Hong Kong's Financial Secretary, John Tsang, and the Vice Minister of Commerce of the People's Republic of China, Wang Shouwen, signed a

new agreement under the Closer Economic Partnership Agreement framework to further liberalise trade in services between the mainland and Hong Kong.

The Government's Commission on Poverty launched a six-month public engagement exercise on retirement protection on 22 December. The aim is to seek public views on whether they prefer to have a universal retirement protection system or a retirement protection system that is only eligible to those with financial needs.

Competitiveness

On 30 September, the World Economic Forum released its latest Global Competitiveness Report 2015-2016. Hong Kong was placed seventh for the third consecutive year. The report cited that Hong Kong continued to lead in infrastructure and was one of the top adopters of technology. Although slipping from top place, its financial sector (third) also remained well developed. However, the report warned that the biggest challenge that Hong Kong faced was a lack of innovation.

Financial services

On 18 December, the Securities and Futures Commission announced authorisation for the first batch of four mainland funds under the Mainland–Hong Kong Mutual Recognition of Funds initiative for public offering in Hong Kong. The China Securities Regulatory Commission also announced that it had approved three Hong Kong funds for public offering in the mainland market. This is an important milestone during the process of China's capital account opening, which allows greater access between mainland and offshore funds markets.

Renminbi market

Hong Kong is the world's leading offshore RMB market, with the Standard Chartered Renminbi Globalisation Index putting Hong Kong's share of the global RMB market at 61 per cent in October 2015. RMB business in Hong Kong moderated during the second half of the year, affected by Hong Kong and mainland stock market volatility and the depreciation of the RMB. The Hong Kong Monetary Authority observed RMB

deposits in November had dropped 11 per cent compared with the same period last year, to RMB864.2 billion. Nevertheless, RMB business remained active with RMB trade settlement continuing to grow to RMB509 billion in November. The RMB bond market moderated during the period with market data showing a total issuance of dim sum bonds for the first 11 months of 2015 of RMB84 billion, down 58 per cent compared with a year earlier.

EDUCATION AND ARTS

The UK was the top overseas English-speaking study destination for Hong Kong higher education students in 2014/15, attracting 46 per cent of the market share. According to the Higher Education Statistics Agency, 16,215 Hong Kong students are pursuing higher education in the UK, an increase of 10 per cent over the previous year. The number of Hong Kong students studying in independent schools in 2015 was 4,897, a 2 per cent increase from the previous year (source: Independent Schools Council Annual Census 2015).

In August 2015, 64 UK higher education institutions participated in the second of the British Council's annual two-day education exhibitions (the first was held in January), attracting around 4,000 visitors.

In the arts, the British Council presented the *Inside Heatherwick Studio* international touring exhibition, opened by the Hong Kong Chief Secretary, Carrie Lam. The exhibition attracted over 60,000 visitors to the arts venue PMQ and the installation in Pacific Place (central Hong Kong).

The British Council also organised Sir Antony Gormley's *Event Horizon*, with 31 sculptures installed in the Central and Western Districts of Hong Kong. The event was opened in November 2015 by the Chief Secretary, Carrie Lam. This is the most extensive public art project ever presented in the city.

The British Council has continued to deliver substantial programmes in English-language learning and examination services, as well as taking a leading role in a range of arts, education and science partnerships.

From July to December 2015:

- 47,828 people visited/contacted the customer services centre;
- 16,135 learners attended English classes;
- 30,166 examination papers were delivered;
- 915,000 people visited the British Council Hong Kong website; and
- 101 arts, education and science events took place.

CONCLUSION

The Foreign Secretary's six-monthly reports to Parliament reflect the importance that the Government attaches to the continued full and faithful implementation of the Sino–British Joint Declaration on Hong Kong.

We assess that during the reporting period 'One Country, Two Systems' has in the vast majority of areas, continued to function well, but that there are specific grounds for serious concern around rights and freedoms. We assess that some of these rights and freedoms have come under unprecedented pressure during the reporting period. This is harmful to confidence in 'One Country, Two Systems'.

As we noted in our previous report, it is essential for continued confidence in 'One Country, Two Systems' both in Hong Kong and internationally, that Hong Kong continues to enjoy, and is seen to enjoy, the high degree of autonomy and the rights and freedoms enshrined in the Basic Law and guaranteed in international law by the Joint Declaration. We urge the authorities in Hong Kong and Beijing to take the necessary steps to maintain confidence in the system and the sanctity of the rights, freedoms and values it upholds.

LIST OF ABBREVIATIONS

CCBI	China Construction Bank International
CPG	Central People's Government
EAC	Electoral Affairs Commission
FCC	Foreign Correspondents' Club
HKBA	Hong Kong Bar Association
HKJA	Hong Kong Journalists Association
HKSAR	Hong Kong Special Administrative Region
HKTDC	Hong Kong Trade and Development Council
HKU	University of Hong Kong
ITB	Innovation and Technology Bureau
LegCo	Legislative Council
LGBT	lesbian, gay, bisexual and transgender
RMB	Renminbi
RTHK	Radio Television Hong Kong
SAR	Special Administrative Region
UKTI	UK Trade & Investment
UNCAT	United Nations Committee Against Torture