



THE SIX-MONTHLY REPORT ON HONG KONG
1 JULY TO 31 DECEMBER 2017

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

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FOREWORD

This is the 42nd 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 2017.

On 1 July 2017, Hong Kong marked 20 years since the handover, and, as I said in my statement to Parliament at the time, the UK joined Hong Kong in celebrating the success of the SAR, and its continued prosperity and vitality. The new Chief Executive, Carrie Lam, was also inaugurated as the fourth Chief Executive and first female leader of Hong Kong on 1 July. We were pleased to welcome her to London in September 2017, where a landmark UK–Hong Kong Fintech Bridge agreement was signed. The launch of a new Strategic Dialogue on Trade Partnership between the UK and Hong Kong further reinforced our cooperation as champions of free trade as the UK prepares to leave the EU.

The Sino-British Joint Declaration underpins our commitment and the UK Government remains resolute in monitoring its implementation closely. ‘One Country, Two Systems’ remains the fundamental basis which will ensure that Hong Kong’s success continues well into the future. I welcomed the commitment by Chinese President Xi, during his visit to Hong Kong on 1 July 2017, that “the Central Government will unswervingly implement the policy of ‘One Country, Two Systems’ and make sure that it is fully applied in Hong Kong without being bent or distorted”. I believe it is vital that Hong Kong’s high degree of autonomy is and is seen to be respected in full, allowing the people of Hong Kong and its authorities to tackle important issues for themselves, in accordance with the Joint Declaration.

As well as the ‘Two Systems’ aspect, the UK has been clear that we endorse the importance of ‘One Country’. Our clear position is that we do not see independence as a viable option, as it would be inconsistent with ‘One Country, Two Systems’.

I believe that ‘One Country, Two Systems’ generally functions well. However, the increasing pressure I described in the foreword of my last six-monthly report continued in the second half of 2017, and where we have seen this, we have consistently raised our concerns with the Chinese and Hong Kong authorities.

In October, I paid close attention to the denial of entry to Hong Kong of Ben Rogers, the UK national and human rights activist, and issued a statement expressing my concern and our intent to seek an explanation from the Hong Kong SAR Government and the Chinese authorities. We summoned the Chinese Ambassador and wrote to the Hong Kong SAR Government. Beijing’s involvement in this case has strengthened our view that Hong Kong’s high degree of autonomy is under increasing pressure.

We have also been following closely the issue of the co-located border-control system for the new high-speed rail link to mainland China. The recent Decision made by the Chinese National People’s Congress will allow mainland officials to exercise jurisdiction at the rail terminal inside Hong Kong territory. While the economic case

for the high-speed rail link is clear, it is important that the final arrangements are consistent with the 'One Country, Two Systems' framework. I call on the Chinese and Hong Kong SAR Governments to ensure that the established constitutional framework for any change to the Basic Law is respected to ensure continued confidence in the 'One Country, Two Systems' principle.

The rule of law and independence of the judiciary is the foundation on which Hong Kong's success and prosperity is built. This reporting period has seen a large number of cases related to the political system come before Hong Kong's courts, including the disqualification of a further four legislators. The judiciary in Hong Kong remains in high esteem. It will be vital that the Hong Kong SAR Government is seen to use the system of justice fairly in all cases.

I remain committed to ensuring that the strong momentum in the UK's relationship with Hong Kong is sustained. Hong Kong has a well-deserved reputation as a global financial centre, with strong rule of law and an open society. The UK's commitment to the Joint Declaration and 'One Country, Two Systems' remains as strong as ever. I look forward to continuing to work with the Hong Kong SAR Government to deepen our strong and vital relationship in the future.

INTRODUCTION

This series of six-monthly reports reflects the UK Government's continued interest in developments in Hong Kong and our commitment to the faithful implementation of the 1984 Sino–British Joint Declaration. In that 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. As covered in the last six-monthly report, in July 2017 the UK Government re-affirmed Britain's commitment to the Joint Declaration and underlined its status as an international agreement registered at the UN, in response to some remarks by the Chinese government.

The current reporting period featured debate over the 'One Country, Two Systems' relationship with the Chinese constitution, following President Xi's speeches during his visit to Hong Kong and his report and speeches at the 19th Party Congress. There were also a number of high-profile legal proceedings, the denial of entry to Hong Kong of the UK citizen Ben Rogers and the debate around the co-location of mainland officials at West Kowloon Terminus.

ONE COUNTRY, TWO SYSTEMS

President Xi's visit to Hong Kong from 29 June to 1 July, to inaugurate the SAR's new Chief Executive, Carrie Lam, and mark the 20th anniversary of Hong Kong's return to China, was covered in the last six-monthly report. The remarks made by President Xi in his various speeches in Hong Kong set the tone for the wider discourse throughout this reporting period. They, and the President's remarks at the 19th Party Congress, were referred to regularly by senior Central People Government (CPG) officials speaking in Hong Kong and Beijing.

19th Party Congress: Hong Kong

In his speeches and report at the Communist Party's 19th Congress, held in Beijing in October, President Xi reinforced the themes of his visit to Hong Kong in late June. Xi said the Central Government's "comprehensive jurisdiction over Hong Kong, and the special administrative region's high degree of autonomy must be combined in an organic manner". Xi reported that China's "full and faithful" implementation of 'One Country, Two Systems' had not been "bent or distorted".

President Xi said the CPG would "develop and strengthen the ranks of patriots who love both our country and their regions, and foster greater patriotism and a stronger sense of national identity". In addition, China's Education Minister said that Hong Kong should make sure teachers understood China "in a correct way", ensuring that they "love the country first, identify with the country and have stronger national pride".

Economically, President Xi recognised how "closely tied" Hong Kong's development is with that of the mainland, noting that it was "essential to realizing national

rejuvenation”. Xi said the Party would continue to support Hong Kong’s integration into the overall development of the country, prioritising the Greater Bay Area plan as a platform for further regional cooperation and committing to make it easier for the people of Hong Kong to live, work and do business in the mainland.

The report, and President Xi’s remarks, received a mixed response in Hong Kong. Pro-establishment figures welcomed Xi’s strong leadership while warning that his remarks showed the need to avoid unrest. Pro-democracy figures questioned how Beijing’s “comprehensive jurisdiction” fits with the Basic Law’s guarantee of a high degree of autonomy. The Director of the Hong Kong Macau Affairs Office, Zhang Xiaoming, dismissed this concern by stating that the key was “to integrate them [the Chinese constitution and Basic Law] instead of putting them in confronting positions”. Chief Executive Carrie Lam told mainland media that Xi’s words were “an inspiration to Hong Kong”.

Post-Congress seminars, briefing and debate in Hong Kong

In the following weeks, a number of seminars were held in Hong Kong to discuss the 19th Party Congress. Senior CPG and Party officials spoke to a range of audiences. The ‘One Country, Two Systems’ framework, and the relationship between the Chinese constitution and the Basic Law, were central to the seminars and the extensive wider public and media debate they prompted.

- *Li Fei’s speech on ‘Hong Kong’s role and mission under China’s constitution and the Basic Law’*

In November, Li Fei, Basic Law Committee Chair and Deputy Secretary General of the Standing Committee of the National People’s Congress (NPCSC), addressed a seminar marking the 20th anniversary of the establishment of the Hong Kong SAR. The Hong Kong Education Bureau invited secondary schools to live stream the speech. Fifty publicly funded schools did so. Education-sector legislator Ip Kin-yuen expressed concern that those invited to stream the speech felt pressured to do so, and noted that this was the first time the Hong Kong SAR Government had suggested schools broadcast an official’s speech – a move he described as “not in keeping with Hong Kong’s tradition, culture or practice”.

Li’s speech repeated many of President Xi’s comments at the 19th Party Congress, and focused on the primacy of the Chinese constitution over the Basic Law and national security. Li said that the Central Government remains determined to implement ‘One Country, Two Systems’ comprehensively and accurately; the Basic Law has constitutional and legal status in the Hong Kong SAR, but the constitution of the People’s Republic of China (PRC) is the constitution of the whole country, including Hong Kong; the Hong Kong SAR is a local administrative region of the PRC, not a political entity; the CPG has direct jurisdiction over the Hong Kong SAR, which is “jointly governed” by the CPG and the Hong Kong SAR Government; and the Hong Kong SAR is obliged to respect the constitution, uphold the constitutional order, and safeguard national unity, territorial integrity, national sovereignty and security. Expanding on the final point, Li said “We have all seen the adverse effects

brought by the absence of the law. Hong Kong has a duty to accurately and fully implement Article 23.”

Article 23 of the Basic Law

“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 organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies.”

Response to Li's speech focused almost exclusively on his comments regarding Article 23, which remains controversial in Hong Kong. Speaking after the seminar, Chief Secretary Matthew Cheung said “Hong Kong has the responsibility to enact Basic Law Article 23 and the Government will push forward the legislation when the social atmosphere is right”.

- *Wang Zhenmin speech at Basic Law seminar*

At another seminar to discuss the Basic Law, the Legal Director of the Central Government Liaison Office (CGLO), Wang Zhenmin, called on the audience to “embrace the nation”. He said that those in Hong Kong who criticised the Party or the CPG were “dwelling on unfortunate historical events” rather than focusing on the successes of the PRC. Wang asked his audience if the PRC was “so scary”, how had it received “the most foreign direct investment in the last 30 years”? He added, “It's time to change biases against the Communist Party and the Chinese Government, and objectively and comprehensively learn about the motherland and its constitutional system.”

- *Leng Rong and Wang Zhimin's briefing to Hong Kong SAR Government principal officials and senior civil servants*

Also in November, the Director of the Communist Party's Central Committee Party Literature Research Centre, Leng Rong, spoke at a seminar with Hong Kong SAR Government senior officials to explain the 19th Party Congress. This was reportedly the first time a Communist Party official had addressed the Hong Kong SAR Government in this way. CGLO Director Wang Zhimin also spoke at the seminar.

Responding to concerns that having a senior Party official and theoretician speak directly about Party ideology to SAR Government officials might undermine ‘One Country, Two Systems’, Chief Executive Carrie Lam denied that the seminar was unusual. She told local media “whenever there are important things in the mainland, we will request the Central Government to nominate the most relevant official to come to Hong Kong, to host the seminar to talk about that particular subject”.

OTHER SIGNIFICANT CONSTITUTIONAL ISSUES

National Anthem Law

On 4 November, the Hong Kong SAR Government announced that the NPCSC had voted to increase the penalties under the mainland's national anthem law and to introduce the law into Annex 3 ['National Laws to be Applied in the Hong Kong SAR'] of Hong Kong's Basic Law.

The Hong Kong SAR Government clarified that no-one would face prosecution in Hong Kong until local legislation had been enacted – “In pursuance to Article 18 of the Basic Law, the National Anthem Law of the People's Republic of China will be applied in the Hong Kong Special Administrative Region (HKSAR) by way of appropriate local legislation consistent with the constitutional and legal regime of the HKSAR” and promised that “during the legislative process, the HKSAR Government will carefully consider the views of the public and members of the Legislative Council”.

The November decision followed months of public and media debate. In August, Basic Law Committee member Rao Geping argued that applying the law in Hong Kong would “help protect the country's sovereignty and dignity”, schools must have lessons on the “spirit of the anthem” and “there have to be limits on freedom of speech in the territory, so people's rights don't impinge on national interests”.

The announcement provoked widespread concern in the SAR. Critics argued the move was further evidence of the ‘mainlandisation’ of Hong Kong and raised concerns over the law's impact on residents' freedom of speech. Legislators across the pro-democracy camp called for public consultation.

On 7 November, Chief Executive Carrie Lam said that she hoped to introduce a bill before July. She sought to reassure Hong Kongers that [the SAR Government] “would also make sure that the law complies with the city's constitutional and legal systems”. She said that the law would only target deliberate insulting of the anthem and she “could not see” how the law could be related to the SAR's rights and freedoms. On the same day, National People's Congress (NPC) member Rita Fan said that she saw little need for a consultation: the mainland law had already been inserted into Annex 3, so there was little room for discussion.

National Constitution Day

On 3 December, the head of the CGLO, Wang Zhimin, gave a speech to mark National Constitution Day, observed for the first time in Hong Kong in 2017.

Wang said that the constitution was the supreme law of the entire country, including the Hong Kong SAR: the constitution and Basic Law had a mother–son relationship. The constitution established that the socialist system was the fundamental system of the PRC. Though the socialist system did not apply here, Hong Kong “must respect and recognize the important state system and institutions such as the leadership of the Communist Party of China and the People's Congress under the constitution”.

Wang concluded that propaganda and education on the constitution would strengthen patriotism and understanding of the relationship under 'One Country, Two Systems'.

Denial of entry to Hong Kong of Benedict Rogers

On 11 October, the UK national and human-rights activist Benedict Rogers was denied entry to Hong Kong on arrival, following intervention from the CPG in Beijing. Ben Rogers himself made clear publicly that his trip would have been a low-key personal visit to Hong Kong, not in any official capacity, and that he had no plans for any public events or media engagements.

The Joint Declaration and the Basic Law refer to immigration controls as the responsibility of the Hong Kong SAR Government. In this case, the Chinese Government, not the Hong Kong SAR Government, instigated the process to deny Ben Rogers entry. A Chinese Ministry of Foreign Affairs spokesperson said "It falls within China's sovereignty to decide who is allowed to enter the Chinese territory and who is not. Hong Kong was returned to China in 1997 and Hong Kong affairs are purely China's internal affairs. The Chinese Government's firm opposition to interference in China's internal affairs by any foreign government, organization and individual in any form remains steadfast."

Speaking in a radio interview, Chief Executive Carrie Lam said "the Central Government is responsible for foreign affairs relating to Hong Kong". When asked if immigration matters were considered foreign relations, Lam said it depended on whether "any issues relating to foreign affairs were involved in the immigration process". Lam also said she did not believe public confidence in 'One Country, Two Systems' would be affected by the decision to prevent Rogers from entering.

The Foreign Secretary made a statement on 11 October, in which he said "I am very concerned that a UK national has been denied entry to Hong Kong. The British Government will be seeking an urgent explanation from the Hong Kong authorities and from the Chinese Government."

The FCO summoned the Chinese Ambassador to London on 11 October, and the Minister of State for Foreign and Commonwealth Affairs, Mark Field MP, wrote to Hong Kong's Chief Executive Carrie Lam about the case. Mr Field asked for clarification as to whether the decision for denying Mr Rogers entry was taken in Beijing or Hong Kong, and made it clear that the handling of the case raised serious questions about Hong Kong's degree of autonomy. The Chief Executive's response was consistent with previous public comments made by the Hong Kong SAR Government.

Hong Kong's high degree of autonomy is enshrined in the Joint Declaration and Basic Law. All territories can deny entry in accordance with relevant local laws. However, international confidence in Hong Kong's high degree of autonomy will be undermined if individuals who lawfully express their political views are denied entry to Hong Kong under pressure from the Chinese authorities.

Co-location of mainland officials at West Kowloon Terminus

In a Decision issued on 27 December, the NPCSC approved the Co-Operation Arrangement signed in November by Guangzhou and the Hong Kong SAR authorities on the establishment of a joint checkpoint on the territory of the SAR. Under the terms of the Agreement, mainland officials will have jurisdiction over part of the West Kowloon terminus for the new high-speed rail link to the mainland when it is operational. The legal basis for the joint checkpoint has been the subject of intense debate for much of the year because Article 18 of the Basic Law stipulates that Chinese national laws shall not be applied in the SAR.

Following the NPCSC's Decision, the Hong Kong SAR Government stated that there was no legal basis in the Basic Law for co-location because the drafters could not have envisaged any such arrangement at the time the Basic Law was written. The NPCSC claimed that the Decision itself confirmed that the arrangement was consistent with the PRC constitution and the Basic Law.

The NPCSC's explanation of its decision said that a number of Basic Law articles, including Article 2, provided the source of power for co-location. It also argued that Article 18 was meant to stop mainland laws applying to the whole of Hong Kong, rather than a designated area. Many in the legal community criticised the Decision and the explanations put forward by the Hong Kong SAR Government and Beijing, arguing that the proposed arrangement was in conflict with Article 18 and that an NPCSC Decision along these lines did not provide an appropriate legal base.

The Hong Kong Bar Association said, in a statement issued on 28 December 2017, that the Decision "plainly amounts to an announcement by the NPCSC that the Co-operation Agreement complies with the constitution and the Basic Law 'just because the NPCSC says so'". The Bar Association described this move as "the most retrograde step to date in the implementation of the Basic Law" and added that it "severely undermines public confidence in 'One Country, Two Systems' and the rule of law in the HKSAR".

The SAR Government issued a statement refuting the Bar Association's accusations. It said that "there is absolutely no question of the constitution, the Basic Law or 'One Country, Two Systems' being disregarded or disrespected just because the subject matter concerns 'a good thing'". On the question of the constitutionality of the co-location plans, the SAR Government said "The present Decision is a decision made entirely pursuant to the PRC constitution and related procedures. It has legal effect and is not a mere executive decision as suggested by some."

Minister for State Lord Ahmad of Wimbledon said in the House of Lords on 24 January 2018 that “while the economic case that the Chinese have made for the high-speed rail link is clear, it is also important that the final arrangements are and remain consistent with the ‘One Country, Two Systems’ framework. We understand that the Hong Kong Bar Association and the Law Society of Hong Kong have also raised concerns about the legal basis for this proposal”.

The UK Government recognises that detailed plans for the co-location arrangement have yet to be finalised, with local legislation still to be adopted by the Legislative Council. While the economic case for the high-speed rail link is clear, it is important that the final arrangements are consistent with the ‘One Country, Two Systems’ framework. Mainland officials exercising jurisdiction within the territory of the Hong Kong SAR is a significant new step.

We understand the concerns that have been raised about the legal base for the proposal, and its impact on ‘One Country, Two Systems’, and we note the strong views expressed by the Hong Kong Bar Association. We urge the Chinese and Hong Kong SAR Governments to ensure that the established constitutional framework for any change to the Basic Law is respected to ensure continued confidence in ‘One Country, Two Systems’.

Chief Executive’s policy address

On 11 October, Chief Executive Carrie Lam gave her first annual policy address, ‘We Connect for Hope and Happiness’. In a briefing to the consular corps, the Chief Secretary underlined that this address symbolised a new start, with a focus on ensuring Hong Kong remained an attractive place to invest. Much of the content of the Chief Executive’s speech had been trailed ahead of the address, and was largely economic in focus.

Lam outlined the obligation of citizens to “say no” to any attempt to threaten China’s sovereignty, security and development interests and to nurture a next generation with a sense of national identity, affection for Hong Kong and social responsibility. The Chief Executive said that she would work to improve the executive–legislature relationship in an “innovative, interactive and collaborative” manner.

Chief Executive’s duty visit to Beijing

On 13 December, Chief Executive Carrie Lam visited Beijing for her first ‘duty visit’ as Chief Executive. A Hong Kong SAR Government statement said that President Xi had praised Lam for fostering social stability, focusing on Hong Kong’s economic growth, and improving people’s livelihood. He said that the Central Government’s commitment to ‘One Country, Two Systems’ remains unchanged and he urged her to continue uniting Hong Kong people.

Changes to Legislative Council rules of procedure

On 15 December, the Legislative Council (LegCo) passed a number of controversial changes to its rules of procedure. The changes were introduced by the pro-establishment camp, following the disqualification of six pro-democracy legislators. During a fractious debate, pro-democracy legislators staged several protests in an effort to delay the vote.

The changes were intended to limit filibustering, which we have covered in previous reports, and improve the operation of LegCo. Of particular note were a number of changes that increase the LegCo President's powers and the reduction, from 35 to 20, in the number of legislators required to be present for the Council to be quorate. In late December, disqualified legislator 'Longhair' Leung Kwok-heung told media that he would be filing an application for a judicial review of the quorum changes, arguing that they violated Article 75 of the Basic Law (stating that quorum should not be less than one half of all its members).

In the weeks prior to the debate, Chief Executive Carrie Lam said that she supported the proposed changes, criticising some of the Council's current rules as "outdated". The Chief Executive also denied pro-democracy camp accusations that the changes were intended to make it easier for the Hong Kong SAR Government to pass controversial legislation such as Article 23. Lam said that "I've been working in the government for 37 years – this government, whether it's this administration or the last, will not do anything that would harm the public."

Election of Hong Kong NPC delegates

On 19 December, the 1,989-strong Electoral College elected Hong Kong's 36 delegates to the NPC. Of the 49 candidates approved to stand, only one came from the pro-democracy camp, with ten others disqualified. All candidates were required to sign a form declaring they would "safeguard the Chinese constitution and the Basic Law, uphold the 'One Country, Two Systems' principle, pledge loyalty to the People's Republic of China and the Hong Kong Special Administrative Region, and accept no financial assistance concerning elections from foreign countries". Civic party legislator Kwok Ka-ki refused to sign the form, while eight other pro-democrats were judged to have contravened the declaration with their past "words or deeds". A final candidate failed to submit any paperwork. Seats were secured by 25 of 26 candidates seeking re-election, and 11 new delegates, including the former Secretary for Constitutional and Mainland Affairs, Raymond Tam, were elected.

LEGAL AND JUDICIARY

Many Hong Kong commentators, especially from the pro-democracy camp, expressed concern that the legal system was increasingly being politicised, or used to achieve political ends.

High-profile legal proceedings in Hong Kong

A number of high-profile legal proceedings were heard in the second half of 2017, including those set out below.

- *Disqualification of legislators*

On 14 July, four legislators were disqualified by the High Court [further to the earlier disqualifications of Yau Wai-ching and Sixtus 'Baggio' Leung]. Their disqualifications meant that the pro-democracy bloc in the Legislative Council lost its ability to veto motions requiring the support of both geographic and functional constituencies. Speaking in August, the four said that efforts to make them repay costs and expenses of approximately HKD 10 million (£1 million) were intended to prevent them from standing for re-election by bankrupting them.

In August, the Court of Final Appeal dismissed the request by disqualified legislators Yau Wai-ching and Sixtus 'Baggio' Leung for leave to appeal against their disqualifications. The decision left Yau and Leung liable for approximately HKD 1.8 million (£180,000) in costs and repayments of pay and allowances.

The disqualifications prompted much debate in Hong Kong throughout the reporting period. Pro-establishment figures welcomed the disqualifications, arguing they "upheld the rule of law". Many pro-democracy commentators argued that it proved Hong Kong's rule of law was under threat, with the courts becoming increasingly politicised. Speaking at a legal forum at Hong Kong University in October, former Secretary for Justice Wong Yan-lung said that he believed Beijing's decision to interpret Article 104 [covering the taking of oaths by senior officials and the judiciary] of the Basic Law in late 2016 was "strongly politically motivated", although he noted that all three Hong Kong Courts which had considered the case said they would have disqualified the legislators anyway.

- *Civic Square*

On 18 August, three leaders of the 2014 Occupy protests had their sentences increased by the Court of Appeal for storming Civic Square in 2014 (an event that sparked the 79-day Occupy protests). Joshua Wong, Nathan Law and Alex Chow were given and served community service sentences (and a suspended jail term) in 2014 but the Department of Justice appealed, arguing that the court had ignored the gravity of the offence. Following the review hearings, Wong was sentenced to six months, Chow seven months and Law eight months' jail time; the sentences took into account time already served on community service.

Wong and Law were granted bail pending appeal in October. On 7 November, Alex Chow was also granted bail and all three were granted leave to appeal. At the end of this reporting period, no decision had been reached on the appeal.

The SAR Government's decision to seek a review of the sentences originally handed down drew significant media attention. Reuters reported that, according to a senior government source, Hong Kong prosecutors had initially not recommended pursuing the case further but Secretary of Justice Rimsky Yuen had insisted on re-opening it. These allegations, and the harsher punishments handed down, fuelled the ongoing debate about the pressure being placed on Hong Kong's rule of law and individuals and institutions. Tens of thousands took to the streets to protest against the decision on 23 August.

The Department of Justice responded that "There cannot be any suggestion that the court was not acting independently and fairly in convicting the defendants". Chief Secretary Matthew Cheung suggested international media criticism was "not objective". He denied accusations of political motivations, noting "Judicial independence is the cornerstone of Hong Kong's success, and we've got a fiercely independent judiciary here in Hong Kong [...] Due process has been observed in reaching the decision of the Court of Appeal, so it's something beyond dispute."

Following the sentencing of Joshua Wong, Nathan Law and Alex Chow, an FCO spokesperson said "The UK remains a staunch supporter of the right to peaceful protest and we believe it is vital that Hong Kong's young people have a voice in politics. Hong Kong's way of life is underpinned by its rule of law. We note the decision reached by the Court of Appeal on the case of Joshua Wong, Nathan Law and Alex Chow and we hope the decision on this case will not discourage legitimate protest in the future."

- *Mong Kok protest site clearance*

In July, seven of the 20 Occupy protestors standing trial for ignoring an injunction to leave the Mong Kok protests site pleaded guilty to charges of contempt of court. High-profile activists Joshua Wong and Lester Shum were among those who pleaded guilty. In January 2018 (following the period covered by this report), Joshua Wong was sentenced to three months in jail. Raphael Wong, Vice Chairman of the League of Social Democrats, received a sentence of four-and-a-half months. The other defendants, including Lester Shum, were given suspended sentences.

- *Ken Tsang assault*

As we reported in the last six-monthly report, seven police officers were found guilty of assaulting protester Ken Tsang during the Occupy protests. In February 2017, they were sentenced to two years in prison. All seven announced their intention to appeal and, by August, all had been released on bail pending appeal. By the end of this reporting period, no further judgements had been passed.

- *Frankly Chu*

In December, retired Police Superintendent Frankly Chu was found guilty of assault occasioning actual bodily harm from an incident during the 2014 protests. At sentencing on 3 January, Chu received three months' jail time but was subsequently released on bail pending appeal. Chu's conviction provoked strong responses in Hong Kong. The Police Superintendents' Association issued a statement expressing its disappointment. The Junior Police Officers' Association expressed its regret at the verdict in a letter to members, saying "The trial has brought confusion to frontline officers executing their duties, as it has become unclear what constitutes the reasonable and legal use of force, and who decides whether that use is legal." Some pro-establishment legislators expressed sympathy for Chu.

In the days following the verdict, a woman was arrested after reportedly abusing the judge as she handed down the sentence. In protests outside the court, someone was heard using a megaphone to shout "Dismiss all foreign judges, we want Chinese ones" and "Judges in PRC's courts must be Chinese". Other protestors were reported to have referred to Principal Magistrate Bina Chainrai as a "dog". The Chief Executive, the Chief Justice of the Bar Association and the Equal Opportunities Commission (EOC) all condemned the personal attacks on judges. The EOC said such attacks eroded the image of Hong Kong, while the Bar Association "strongly condemns such conduct and invites the relevant authorities to take swift action to deal with such serious and offensive conduct".

- *Donald Tsang*

In October, the jury in the retrial of former Chief Executive Donald Tsang was dismissed after jurors indicated they were unable to reach a verdict. Prosecutors sought the retrial after jurors in Tsang's first trial [reported in the last six-monthly report] also failed to reach a verdict on a single count of bribery. Following a second failure to secure a conviction, prosecutors told media they would not seek a third trial unless there was any change in circumstances or new evidence came to light.

Booksellers

In October, the CPG announced that Hong Kong bookseller and Swedish citizen Gui Minhui had been released, having served his sentence for the traffic offence he "confessed" to in a widely criticised TV appearance in 2015. Gui's daughter told media that the family had not heard from him since his reported release, while Amnesty International questioned whether Gui was "genuinely free". Our next six-monthly report will cover further developments in January 2018.

EDUCATION POLICY & INSTITUTIONAL AUTONOMY

In July, Chief Executive Carrie Lam denied that she had been instructed by Beijing to appoint Christine Choi, a former vice-president of the pro-Beijing Hong Kong Federation of Education Workers, as Under-Secretary for Education in order to help push national education in schools.

Later that month, Education Secretary Kevin Yeung defended a secondary-school syllabus that was criticised by teachers, activists and the media as biased. The 2015 syllabus discussed the Basic Law and used fictional newspaper articles to describe protests in Hong Kong. The Chinese-language version included material that did not feature in the English version, including the suggestion that “giving up effective channels of communication in favour of street resistance shows that a portion of Hong Kongers have a simplistic and superficial understanding of democracy” and linking protests to attacks on the police as well as “radical” acts. Joshua Wong called on the Hong Kong SAR Government to rescind the “provocative and ‘red’ syllabus”. Executive Committee member Ronny Tong told media he thought the syllabus was biased and should not link basic human rights to illegal activities.

In August, during a meeting in Beijing, Chinese Education Minister Chen Baosheng reportedly reminded Chief Executive Carrie Lam of President Xi Jinping’s instructions on the need to strengthen young people’s education on the Chinese constitution, Basic Law, and Chinese history and culture. Later in August, Education Secretary Kevin Yeung told media that national education was essential “to strengthen knowledge and recognition towards the country amongst the younger generation in Hong Kong”.

In October, Chen Baosheng told RTHK that the Hong Kong SAR Government had a duty to implement national education. His remarks prompted some in Hong Kong to question whether this was evidence of further interference, with many highlighting Article 136 of the Basic Law, which sets out that the Hong Kong SAR Government shall formulate its own policies on education.

At the end of October, Kevin Yeung told a LegCo panel meeting that some historical events were “relatively less important” and urged legislators “not to get bogged down” when questioned on why the committee reviewing a proposed new syllabus on Chinese history (planned to be introduced in 2020) did not intend to include the Tiananmen Square incident or the 1967 leftist riots in Hong Kong. In November, Yeung sought to allay concerns over media reports that the CGLO had invited Hong Kong school principals to discuss the teaching of Chinese history.

Previous six-monthly reports have included references to concerns about institutional autonomy, particularly focused on Hong Kong’s universities. This debate continued throughout the reporting period as a number of universities prevented, or attempted to prevent, students from advocating Hong Kong independence on campus.

In September, the Chinese University of Hong Kong (CUHK) removed pro-independence banners from campus, describing them as “violating Hong Kong law”. Similar banners appeared at other universities as students accused the university authorities of infringing their free speech. On 8 September, the state-run newspapers People’s Daily and Global Times ran articles criticising the student unions for promoting the idea of Hong Kong independence.

In a statement on the same day, Chief Executive Carrie Lam reiterated that Hong Kong independence ran counter to the Basic Law. The Chief Executive also said “the freedom of speech is not without limits, and ... academic freedom and autonomy of

tertiary institutions are not excuses for the advocacy of fallacies". The Chief Executive expressed the hope that the university administration would take appropriate action as soon as possible and that different sectors of society would join forces to rectify such abuse of the freedom of speech so as to safeguard the core values of a civic society.

BASIC RIGHTS AND FREEDOMS

Media

On 2 July, the Hong Kong Journalists Association (HKJA) published its 2017 annual report, *Two Systems under Siege*. The report detailed the HKJA's concerns that Beijing was "increasingly encroaching on the city's autonomy in an all-encompassing manner".

Also in July, the Hong Kong Asia Society was criticised for preventing Joshua Wong from speaking at the launch of a book to which he had contributed: *Hong Kong 20/20: Reflections on a Borrowed Place*, published by PEN Hong Kong. Following criticism and accusations of self-censorship, the Asia Society's US Headquarters said it was "clear that an error in judgement at the staff level was made involving the PEN Hong Kong event".

On 5 September, Hong Kong's public broadcaster, RTHK, replaced RTHK 6's 24-hour BBC World Service broadcast with China National Radio: state-run programming, largely in Mandarin. The World Service had been relayed by RTHK since 1978. Critics described the decision as further evidence of the 'mainlandisation' of Hong Kong. RTHK noted that the World Service would still be available between the hours of 11pm and 7am.

On 19 September, the Hong Kong SAR Government announced that it would grant online media outlets access to SAR Government press conferences. The HKJA welcomed "the Government's long overdue decision to lift its bar on digital-only media from its press functions". It noted that the decision was the result of a five-year campaign, which included a successful request for a judicial review that was due to be held in 2018. However, IT sector legislator Charles Mok said some of the conditions placed on the media outlets were outdated and unclear. He highlighted in particular a requirement that organisations must be registered under the Registration of Local Newspapers Ordinance, noting that this required hard copies of a 'newspaper' to be delivered to a Hong Kong SAR Government-appointed registrar.

In October, the Hong Kong police opened an investigation into threatening letters sent to staff at Hong Kong Free Press (HKFP), an English-language online news site. The letter accused journalists of "writing biased and negative stories about Hong Kong and China, and being brainwashed by foreigners". It listed 50 non-Chinese names, including HKFP contributors and democracy activists, under the heading "The Following Foreigners have been deemed Guilty of spreading hatred and dividing Hong Kong, China society". It said "The Punishment shall be mandated as of January 2018. Expulsion from Chinese territory. A list will be sent to immigration staff."

The HKJA was “appalled by the threats”. The International Federation of Journalists said the letters were an effort to “intimidate and silence the staff at HKFP”, adding “We stand in solidarity with our colleagues in Hong Kong as they continue to fight and advocate for press freedom and free speech.”

International reports

In October, the Henry Jackson Society, a foreign-policy think tank based in the UK, published a report titled *Hong Kong After 20 Years: the Rollback of Civil, Human, and Legal Rights*. The report’s findings included “a startling and dramatic decrease of Hong Kong’s democratic and legal rights in only 10 years, indicated on a wide front of indicators”. In addition, the report said, “China has engaged in a number of direct and indirect ways to subvert both the legislative process and judicial system in Hong Kong, making those sectors beholden to Beijing.”

In the same month, the US Congressional Executive on China published its annual report, which included a section on developments in Hong Kong and Macao. The report highlighted “interference by the Chinese Central Government in Hong Kong’s political and legal affairs, in particular with regard to the Hong Kong judiciary’s disqualification of six opposition lawmakers” that “further undermined the ‘One Country, Two Systems’ policy meant to ensure Hong Kong’s autonomy as guaranteed under Hong Kong’s Basic Law.”

Diversity and equality

On 31 August, Hong Kong was announced as the host city for the 2022 Gay Games, and will become the first Asian venue for the Games. Equal Opportunities Commission Chair Alfred Chan welcomed the announcement. Replying to media questions about whether Hong Kong could be considered an inclusive and international city, given the Government’s failure to welcome the successful bid, Chief Executive Carrie Lam said “We have the Equal Opportunities Commission and all the necessary institutions in place. But I think we have to also listen to the opinion and views and sentiments of the rest of the community.”

In September, the high-profile ‘QT’ case concluded as a gay expatriate won her case over the Hong Kong Immigration Department’s refusal to issue her a spousal visa on the grounds that Hong Kong does not recognise same-sex marriage. The Immigration Department had argued that the couple’s status did not meet Hong Kong’s legal definition of ‘spouses’ – a husband and wife in a heterosexual and monogamous marriage. But the Court of Appeal ruled unanimously in QT’s favour, describing the Immigration Department’s stance as “a form of indirect discrimination which puts same-sex couples at a serious disadvantage”. In December, it was announced that the Hong Kong SAR Government had been granted leave to appeal the ruling in the Court of Final Appeal. At the time of writing, no appeal date had been published.

Also in December, the Hong Kong SAR Government appealed the April 2017 decision (reported in the last six-monthly report) that it had discriminated against senior immigration officer Leung Chun-kwong when he was told his same-sex partner was not entitled to benefits other spouses enjoy under Civil Service regulations. Lawyers for the SAR Government said that extending the core rights and benefits enjoyed by heterosexual couples to same-sex partners would undermine the traditional understanding of marriage in the city, and asked the court to consider the impact of the case on the distribution of scarce public resources.

In October, the Hong Kong SAR Government Working Group on Gender Recognition announced that the deadline for submission of responses to the consultation paper on gender recognition had been extended to 31 December 2017. The Consultation Paper on Gender Recognition sought the views of the community on a number of issues concerning legal gender recognition, including whether a gender recognition scheme should be established in Hong Kong, and the contents of such a scheme.

Marches and protests

Regular marches and protests took place during the reporting period, as is normal for Hong Kong. The vast majority passed off without incident. We reported the annual 1 July rally in the last six-monthly report. Other marches of note included the following:

- The annual Hong Kong Pride Parade was held in November. Organisers said that approximately 10,000 people took part.
- On 1 October [Chinese National Day], several thousand people marched against the “growing authoritarianism” in Hong Kong, voicing concern about the political pressure affecting Hong Kong’s rule of law and calling for the then Secretary for Justice, Rimsky Yuen, to resign. Organisers said that approximately 40,000 people joined the march.
- In July, more than a thousand people marched silently to commemorate the death of Nobel Laureate Liu Xiaobo, denouncing the CPG’s treatment of the writer.
- In August, as detailed elsewhere in this report, one of Hong Kong’s largest protests since 2014 occurred when Joshua Wong, Nathan Law and Alex Chow received harsher sentences for their actions at Civic Square in 2014.

UK–HONG KONG BILATERAL RELATIONS

UK–Hong Kong relations remained strong during the reporting period, and a number of high-level exchanges took place.

FCO Minister for Asia Pacific Mark Field visited Hong Kong on 23 and 24 August. During his visit, Mr Field met the Chief Executive, legislators, students and representatives of British business, among others. Mr Field discussed Hong Kong with Chinese Foreign Minister Wang Yi and Chinese Vice-Foreign Minister Wang Chao during his visit to Beijing on 22 August.

In September, Chief Executive Carrie Lam made the UK her first destination outside Asia following her inauguration in July. The Chief Executive was accompanied by the Secretary for Commerce and Economic Development. Her meetings included calls on the First Secretary of State, the Chancellor and the Minister for Education.

During her visit in September, the Chief Executive – together with the DIT Minister for Trade Policy, Greg Hands – announced the Strategic Dialogue on Trade Partnership, to be run jointly by the British Consulate-General and the Hong Kong SAR Government. Our trade and investment relationship with Hong Kong is already strong, and barriers to trade remain low. The Strategic Dialogue will allow us to assess what more can be done to maximise trade and investment flows between our two markets.

Also during the Chief Executive’s visit in September, the Chancellor and the Chief Executive witnessed the signing of a landmark UK–Hong Kong Fintech Bridge agreement, which will enhance the availability of talent, expertise and capital between two of the world’s leading fintech centres. In November, the annual DIT–Hong Kong FinTech Awards, which offer local fintech companies an opportunity to explore the UK’s fintech eco-system and connect with potential clients, accelerators and investors, took place. The aim of the Awards was to promote the UK as an attractive location for Hong Kong’s fintech companies to invest, while providing a fertile environment for local start-ups and entrepreneurs.

The Secretary for Housing and Transport, Frank Chan, also visited the UK in September.

The Secretary of State for Communities and Local Government, Sajid Javid, visited Hong Kong on 9 and 10 November. His visit included meetings with senior investors into the UK and the Secretary for Labour and Welfare, Dr Law Chi-kwong.

As in the first half of 2017, a number of very large commercial transactions took place in the UK, including the sale of the 20 Fenchurch Street property known as the ‘Walkie-Talkie’ to sauce maker Lee Kum Kee International Holdings for £1.3 billion in July. Investment from Hong Kong increased after the pound weakened following the referendum in June 2016: it accounted for just under half of all overseas investments in the London real-estate market in 2017, according to data from the international property consultants CBRE.

CONCLUSION

This series of six-monthly reports to Parliament reflects the importance that the UK Government attaches to the continued faithful implementation of the Sino–British Joint Declaration on Hong Kong.

We assess that ‘One Country, Two Systems’ generally functions well. However, the increasing pressure in some areas that was described in the conclusion of the last six-monthly report has continued in the second half of 2017.

During this reporting period, developments set out in detail above which demonstrate this continuing pressure included: the denial of entry to Hong Kong of the UK citizen Benedict Rogers; controversy over the legal basis for the juxtaposed border-control system for the new high-speed rail link to mainland China and the co-location of mainland officials in Hong Kong; the number of high profile judicial cases related to the political system; proposed changes to the education syllabus; and continuing concerns about the exercise of some of the rights and freedoms guaranteed by the Joint Declaration and Basic Law.

This report has also underlined the continued dynamism of Hong Kong’s economy, and the continued strong relationship with the UK. It remains the UK Government’s view that, for Hong Kong’s future success, it is essential that Hong Kong enjoys, and is seen to enjoy, the full measure of its high degree of autonomy, rule of law, independence of the judiciary, and rights and freedoms as set out in the Joint Declaration and enshrined in the Basic Law, in keeping with the commitment to ‘One Country, Two Systems’.