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China Primer: Hong Kong

The Hong Kong Special Administrative Region (HKSAR, or Hong Kong) is a semi-autonomous city located off the southern coast of Guangdong Province, People's Republic of China (PRC or China). The city was established as a British colony in 1841, and administered by the British government until 1997, when it was formally returned to PRC jurisdiction. More than 90% of Hong Kong's population is ethnically Chinese. The first language of the vast majority is Cantonese (a variety of Chinese different from the Standard Mandarin recognized as the national language by PRC law). English is also widely spoken and used in commercial and legal settings.

History of the HKSAR

In 1984, the United Kingdom and the PRC government signed an international treaty known as the Sino-British Joint Declaration on the Question of Hong Kong, or "Joint Declaration." Under the agreement, the UK agreed to transfer sovereignty over Hong Kong to the PRC on July 1, 1997. The PRC government, in turn, committed to ensure that Hong Kong would continue to "enjoy a high degree of autonomy, except in foreign and defence affairs," and "will be vested with executive, legislative and independent judicial power, including that of final adjudication." The PRC also promised the "[r]ights and freedoms, including those of the person, of speech, of the press, of assembly, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief will be ensured by law." The Joint Declaration required the PRC to pass a Basic Law for the HKSAR incorporating these commitments, and those commitments were to "remain unchanged for 50 years." China's National People's Congress (NPC) passed the "Basic Law of the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China" (Basic Law) on April 4, 1990.

Hong Kong at a Glance

Population (2020): 7.5 million

Area: 1,082 square kilometers (418 square miles)

Currency: Hong Kong Dollar (HKD)

Per Capita GDP (2020): US\$59,092 (HK\$462,020)

Leadership: Chief Executive Carrie Lam (Cheng Yuet-ngor)

Legislature: Unicameral Legislative Council (LegCo) with 90 members elected by fixed geographical and functional constituencies.

Key Industries (by % of 2020 GDP value added):
Financial Services (23.3%), Trading and Logistics (19.8%), and Professional Services (11.6%)

Source: Hong Kong Census and Statistics Department, Economist Intelligence Unit (EIU)

From 1997 until 2019, Hong Kong operated with a high degree of autonomy, and many residents resisted efforts by the PRC government to increase its influence and control over Hong Kong, particularly over electoral and national security issues. Hong Kong is governed by an indirectly-elected Chief Executive and Legislative Council (LegCo) and operates with a legal system based on British Common Law. Due to its strong institutions, including an independent legal system, Hong Kong became an important global trade and financial center, and a key window for trade, investment, and finance within the PRC. Under the terms of the Joint Declaration, Hong Kong maintains separate membership in more than 40 international organizations, including the World Trade Organization (WTO), the World Bank, the International Monetary Fund (IMF), and the World Health Organization (WHO). Hundreds of U.S. companies maintain operations in Hong Kong, and the territory hosts the Asia headquarters of many major multinational corporations.

Recent Developments

In recent years, the PRC and HKSAR governments have acted in ways that appear to violate commitments under the Basic Law, i.e., those related to political and human rights.

National Security Law

On June 30, 2020, China's legislature approved a national security law (NSL) for the HKSAR, which criminalizes the organization and perpetration of terrorist activities, secession, subversion, and "collusion with a foreign country or with external elements to endanger national security." The PRC and HKSAR governments said that the law was necessary to restore order following large-scale protests in 2019, and alleged that foreign "anti-China" forces were trying to bring chaos to Hong Kong.

Hong Kong authorities have applied the NSL actively. In February 2021, Hong Kong authorities charged 47 pro-democracy figures with "conspiracy to commit subversion" in connection to their involvement in organizing an election primary for the September 2020 LegCo elections. The NSL, as written, applies to alleged violations committed by anyone, anywhere in the world, including in the United States. The maximum penalty for violations is life in prison. The NSL also allows the PRC government to exercise jurisdiction over alleged violations of the law and prosecute and adjudicate the cases in mainland China.

The Hong Kong Police Force (HKPF) has arrested more than 10,000 people for alleged crimes committed during the 2019 protests. More than 2,300 arrestees have been charged in Hong Kong courts; more than 200 have been convicted, including about 140 who pleaded guilty. The HKSAR increasingly seems to be wielding the NSL as an instrument

of political repression, and has censored pro-democracy media outlets and arrested their leadership and senior editorial staff. As of January 2022, the HKPF had arrested 162 people for alleged crimes related to the NSL. In some cases, the accused have been remanded without bail. For more about the NSL, see CRS Report R46473, *China's National Security Law for Hong Kong: Issues for Congress*.

Electoral and Institutional Changes

Until about 2016, legal experts saw Hong Kong's elected LegCo as a relatively robust check on what is otherwise an "executive-led" system, and some of its elected members were among the most critical of the central government's role in the HKSAR. The electoral landscape changed as a result of the NSL and pre-existing HKSAR government efforts to quell popular demands for direct democracy. Hong Kong courts disqualified six pro-democracy members of the LegCo in 2016 and 2017 for allegedly expressing anti-government sentiment during their oaths of office. In November 2020, the government disqualified four members of LegCo after the Standing Committee of the NPC established new qualifications to be a LegCo member. The following day, 15 members of LegCo's pro-democracy coalition resigned in protest.

In March 2021, the NPC modified Hong Kong's electoral system and created a vetting system to try to ensure only "patriots" run for office. The December 2021 LegCo Elections saw the lowest voter turnout among geographical constituencies in the history of the HKSAR (30.2%). As of February 2022, LegCo is composed of 90 members, all but one of whom critics see as pro-PRC candidates. The PRC has similarly pressured Hong Kong's independent judiciary, with some PRC officials suggesting that judges should be "patriotic" and consider the interests of both the HKSAR and PRC in their decisions.

Coronavirus Disease 2019 (COVID-19)

While Hong Kong initially experienced few cases during the pandemic, in early 2022, COVID-19's Omicron variant led to a surge in cases. In early March 2022, Hong Kong authorities reported the hospitals had reached capacity and began constructing temporary care and quarantine facilities. Some contend the HKSAR government's alignment with the central government's "zero COVID" strategy and reliance on PRC-manufactured vaccines exacerbated Hong Kong's Omicron wave. Hong Kong's real GDP contracted by 6.1% in 2020, which several experts attribute to its international and service-oriented economy, which were strained under travel and other restrictions. HKSAR authorities also cited COVID-19 as a rationale for restricting demonstrations and delaying elections scheduled for September 2020 to December 2021, despite criticism from democracy advocates in Hong Kong and overseas.

U.S. Policy

U.S. relations with Hong Kong are governed by the United States-Hong Kong Policy Act of 1992 (USHKPA; P.L. 102-383), which commits the United States to treating the HKSAR as separate from the rest of China in a variety of political, economic, trade, and other areas so long as the HKSAR remains "sufficiently autonomous." The act also

states, "Support for democratization is a fundamental principle of United States foreign policy."

U.S. Policy Response to Developments in Hong Kong

On July 14, 2020, in response to the NSL, then-President Trump issued an Executive Order on Hong Kong Normalization (E.O.13936). The executive order stated that the HKSAR "is no longer sufficiently autonomous to justify differential treatment in relation to the People's Republic of China," and suspended U.S. treatment of Hong Kong as separate from the PRC for trade and political purposes. It also authorized the Secretaries of State and the Treasury to impose visa and economic sanctions on HKSAR and PRC officials determined to be responsible for the erosion of the HKSAR's autonomy, the undermining of democracy, or the loss of the rights of Hong Kong residents. Since the issuance of E.O.13936, 20 PRC officials and 8 HKSAR officials have been sanctioned, including HKSAR Chief Executive Carrie Lam and the HKPF Commissioner.

On March 31, 2021, the Biden Administration indicated it would maintain the suspension of differential treatment of HKSAR. The HKSAR and PRC governments have condemned the passage of the Hong Kong-related laws, the issuance of E.O.13936, the suspension of Hong Kong's special treatment, and the imposition of sanctions on officials. The HKSAR government described the sanctions as "blatant interference in the internal affairs of the PRC, violating international law and basic norms governing international relations." The PRC has imposed visa and other sanctions on U.S. officials. For more, see CRS Legal Sidebar LSB10488, *Revoking Hong Kong's Preferential Trade Status: Legal Framework and Implications*.

Issues for Congress

Congress historically took an interest in Hong Kong as an international financial center and facilitator of U.S. trade and financial ties with the PRC, as reflected by provisions in P.L. 102-383. Following the PRC's crackdowns on Hong Kong in 2014 and 2019, congressional interest expanded to include threats to the rights of Hong Kong residents; the expansion of PRC surveillance and harassment of journalists, NGOs or other organizations, including U.S. entities; erosion of the rule of law; and the possible departure of international businesses.

The 116th Congress passed three Hong Kong-related laws. The Hong Kong Human Rights and Democracy Act of 2019 (P.L. 116-76) and Hong Kong Autonomy Act (P.L. 116-149) require the President to impose sanctions on PRC and HKSAR officials implicated in undermining democracy and human rights in Hong Kong, while P.L. 116-77 prohibited the sale of U.S. riot control equipment to the HKPF. In the 117th Congress, language in versions of the U.S. Innovation and Competition Act (S. 1260) and the America COMPETES Act (H.R. 4521) includes provisions that would extend prohibitions on the export of equipment to the HKPF, appropriate additional funding for promotion of democracy, and require the executive branch to report on Hong Kong's role in PRC trade and industrial policies.

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