

## VI. Developments in Hong Kong and Macau

### *Hong Kong*

During its 2018 reporting year, the Commission observed a continued erosion of Hong Kong's autonomy,<sup>1</sup> as guaranteed under the "one country, two systems" policy enshrined in the Basic Law in accordance with the principles of the 1984 Sino-British Joint Declaration.<sup>2</sup> Reports showed diminishing space for political action by pro-democracy groups and individuals in Hong Kong's democratic institutions.<sup>3</sup> Observers also expressed concerns regarding the erosion of universal human rights protected by international instruments applicable under the Hong Kong Basic Law.<sup>4</sup>

#### CHINESE CENTRAL GOVERNMENT'S POLICY TOWARDS HONG KONG

At the 19th National Congress of the Chinese Communist Party in October 2017, Party General Secretary and Chinese President Xi Jinping reiterated that the central government must maintain "overall" or "comprehensive" jurisdiction over Hong Kong and Macau while ensuring a "high degree of autonomy."<sup>5</sup> Government officials emphasized the importance of Hong Kong's economic integration with mainland China and joint cooperation through the Belt and Road Initiative.<sup>6</sup> After a meeting with Party General Secretary Xi in December 2017, Hong Kong Chief Executive Carrie Lam Cheng Yuet-ngor said that it is the Hong Kong government's responsibility to create a "suitable environment" for enacting a national security law as obligated by Article 23 of the Basic Law, emphasizing that every person who "loves [the] nation and loves Hong Kong" should protect national security.<sup>7</sup> At the annual meetings of the National People's Congress and Chinese People's Political Consultative Conference in March 2018, top Party officials warned that the central government has "zero tolerance" for calls for Hong Kong independence.<sup>8</sup> The University of Hong Kong surveyed 500 Hong Kong residents and found that 70.6 percent of young people (aged 18 to 35) in Hong Kong felt that "democracy is equally or more important than economic development."<sup>9</sup>

#### MARCH 2018 LEGISLATIVE COUNCIL BY-ELECTION SUBJECTED TO "POLITICAL SCREENING"

In March 2018, a Legislative Council (LegCo) by-election was held to replace legislative seats vacated by four out of six disqualified pro-democracy legislators.<sup>10</sup> The Hong Kong High Court disqualified six legislators in 2016 and 2017,<sup>11</sup> citing the interpretation on oath-taking issued by the National People's Congress Standing Committee in November 2016<sup>12</sup> and deeming the legislators' oaths invalid.<sup>13</sup> Candidates from both the pro-democracy and pro-establishment camps won two seats each.<sup>14</sup> The LegCo consists of 70 total seats—35 of which are elected by functional constituencies representing different professional sectors, while the other 35 are directly elected by Hong Kong geographical constituencies.<sup>15</sup> After the March by-election, the pro-democracy camp held a total of 16 seats in geographical constituencies, which is not enough to veto bills, while the pro-establishment camp maintained a majority of 17 seats.<sup>16</sup>

## Developments in Hong Kong and Macau

2

During the nomination period preceding the March by-elections, the government of Hong Kong carried out what observers called “political screening” of prospective election candidates for the LegCo based on their political party or political beliefs.<sup>17</sup> Government officials from the Electoral Affairs Commission (EAC) who review nomination applications (“returning officers”)<sup>18</sup> rejected the nomination of several candidates,<sup>19</sup> including Demosistō Party candidate Agnes Chow on grounds that her affiliated party’s platform promoting “self-determination” contradicts the Basic Law.<sup>20</sup> The EAC also rejected the nominations of “localist” candidates Ventus Lau Wing-hong and James Chan Kwok-keung who previously voiced support for Hong Kong independence.<sup>21</sup> Hong Kong’s Chief Executive Carrie Lam defended the rejection of Chow, saying that “self-determination,” similar to “Hong Kong independence” and “self-autonomy,” is not consistent with the Basic Law and “deviates from the important principle of ‘one country, two systems.’”<sup>22</sup> In February 2018, the Hong Kong High Court ruled in the election petition of Andy Chan Ho-tin, an advocate of Hong Kong independence whose nomination for candidacy in the September 2016 LegCo General Election was rejected, that “returning officers” have the power to bar candidates based on the candidates’ political views.<sup>23</sup>

The U.K. government and the European Union expressed concern that the rejection of Chow based on her political beliefs constituted a violation of the right to stand for election enshrined in Hong Kong’s Basic Law, Hong Kong’s Bill of Rights Ordinance, and the International Covenant on Civil and Political Rights (ICCPR).<sup>24</sup> The Hong Kong Bar Association criticized the court ruling against Chan as “an introduction of a political screening process for any prospective candidate,” which lacks “fair, open, and clear procedure to regulate this process” and relies on a civil servant’s interpretation of the unspecified requirement of “upholding the Basic Law.”<sup>25</sup>

### GOVERNMENT LEGAL ACTION AGAINST POLITICAL OPPOSITION

This past year, the Hong Kong government continued to pursue cases against leaders and participants of the 2014 pro-democracy protests (Occupy Central) and activists from the political opposition. As of April 2018, the government reportedly brought a total of 40 court cases against 26 pro-democracy leaders since 2014, resulting in 13 convictions among 22 concluded cases.<sup>26</sup> In October 2017, a Hong Kong court found 9 people guilty of criminal contempt for refusing to leave when a court ordered the clearance of protest sites in November 2014; 11 others who also had refused to leave the protest site pleaded guilty to contempt of court.<sup>27</sup> As of February 2018, nine democracy protest leaders faced pending charges of “inciting people to incite others to create a public nuisance” and “inciting others to incite more people to create a public nuisance,” with Occupy Central protest leaders Benny Tai, Chan Kin-man, and Chu Yiu-ming facing an additional charge of “conspiring to create a public nuisance.”<sup>28</sup> In June 2018, the Hong Kong High Court sentenced localist Edward Leung Tin-kei to six years in prison on the charges of “assaulting a police officer,” which he pleaded guilty to, and “rioting” for a February 2016 clash with the police sparked by a crackdown on unregistered local street food stands in Mong Kok.<sup>29</sup> Foreign observers such as Chris Patten,

## Developments in Hong Kong and Macau

3

former governor of Hong Kong under British colonial rule, criticized the charges under the Public Order Ordinance<sup>30</sup> as “vague,” “open to abuse,” and used to “place extreme sentences on the pan-democrats and other activists.”<sup>31</sup> International lawyers and Hong Kong judges reportedly expressed concerns about the impact of political pressure exerted by the central government on the judiciary.<sup>32</sup>

### **Cases of Democracy Activists Joshua Wong, Nathan Law, and Alex Chow**

In October 2017, authorities released on bail democracy activists and Nobel Peace Prize nominees<sup>33</sup> Joshua Wong Chi-fung, Nathan Law Kwun-chung, and Alex Chow Yong-kang, after their imprisonment in August 2017,<sup>34</sup> allowing them to appeal their prison sentences of six to eight months ordered by the Court of Appeal on charges related to “unlawful assembly.”<sup>35</sup> A lower court had previously sentenced Wong and Law to community service, which the two had completed, and had ordered Chow to serve a suspended sentence.<sup>36</sup> In February 2018, the Court of Final Appeal overturned the sentences of imprisonment for Wong, Law, and Chow, holding that the original sentences imposed by the magistrate were “not manifestly inadequate,”<sup>37</sup> while recognizing that the Court of Appeal appropriately issued sentence guidelines for future cases of unlawful assemblies involving violence.<sup>38</sup> Wong criticized the judgment as endorsing “a very narrow definition of non-violent civil disobedience actions” for future cases.<sup>39</sup>

### **“CO-LOCATION” OF HIGH-SPEED RAIL STATION IN WEST KOWLOON**

This past year, Hong Kong and mainland Chinese officials continued negotiations and finalized “co-location” plans for the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link in West Kowloon.<sup>40</sup> In November 2017, Guangdong provincial governor Ma Xingrui and Hong Kong’s Chief Executive Carrie Lam signed a cooperation agreement to allow the enforcement of mainland Chinese law by mainland officials in a designated “Mainland Port Area” within the West Kowloon railway station.<sup>41</sup> The National People’s Congress Standing Committee (NPCSC) approved the “co-location” plan in December,<sup>42</sup> which was projected for completion in the third quarter of 2018.<sup>43</sup> In January 2018, the Hong Kong government introduced the co-location bill in LegCo,<sup>44</sup> which passed in June despite opposition from pro-democracy LegCo members and supporters.<sup>45</sup> The Hong Kong Bar Association (HKBA) criticized the NPCSC approval of the co-location plan as a serious violation of the Basic Law, asserting that it undermines the rule of law and the “one country, two systems” framework in Hong Kong.<sup>46</sup> The HKBA argued that the arrangement constitutes “the most retrograde step to date in the implementation of the Basic Law” and that it “severely undermines public confidence in ‘one country, two systems.’”<sup>47</sup>

### **FREEDOM OF EXPRESSION AND ASSOCIATION**

This past year, the Commission observed reports of restrictions on the freedom of expression and association in Hong Kong against

## Developments in Hong Kong and Macau

academics and politicians who hold views the government deems unfavorable. In a report released in January 2018, the human rights monitoring organization Hong Kong Watch highlighted the government's political considerations in the removal from post and obstruction of promotions of several academic figures since 2015, including pro-democracy professors Chin Wan-kan, Johannes Chan, Benny Tai, and Cheng Chung-tai.<sup>48</sup> The study noted that while academic freedom in Hong Kong remained relatively free compared to mainland China, "elements of academic control" in mainland China are "gradually being incorporated into the Hong Kong system."<sup>49</sup> Pro-democracy scholars and activists also said that the environment for academic freedom is deteriorating in Hong Kong.<sup>50</sup> In March 2018, Benny Tai, one of the conveners of the pro-democracy protests in 2014, attended an academic forum in Taiwan, during which he hypothesized future political options for Hong Kong, including independence if the mainland were to become democratic.<sup>51</sup> The Hong Kong government subsequently issued a statement that "strongly condemned" Tai's remarks.<sup>52</sup> Civil society groups and pro-democracy politicians condemned the government's statement as breaching the right to freedom of expression.<sup>53</sup> In July 2017, the government of Hong Kong began considering banning a political party that advocates for independence,<sup>54</sup> and subsequently opposed an August event hosted by the Foreign Correspondents' Club of Hong Kong featuring the party's founder, Andy Chan.<sup>55</sup> The U.K. government issued a statement of concern showing support for Hong Kong's "rights and freedoms" under the Basic Law and Hong Kong Bill of Rights and "its way of life."<sup>56</sup> A Hong Kong Journalists Association survey from April 2018 cited pressure from the Chinese central government as a key obstruction to press freedom in Hong Kong in connection with self-censorship of criticisms of the central government.<sup>57</sup> In advance of the UN Human Rights Council's Universal Periodic Review of the Chinese government's human rights record, including compliance with the ICCPR, 53 Hong Kong non-governmental organizations raised concerns about the narrowing space for lawful dissent and expression in Hong Kong and the future of democratic development.<sup>58</sup>

Chinese authorities reportedly used intimidation tactics against members of a pro-democracy group and played a role in barring a foreign rights advocate's entry into Hong Kong. In August 2018, pro-democracy group Demosistō reported that mainland officials detained and extensively questioned two of its members on their political associations and activities in Hong Kong when they attempted to return to Hong Kong from mainland China.<sup>59</sup> In October 2017, Hong Kong authorities barred British human rights advocate Benedict Rogers from entering Hong Kong after the Chinese embassy in London reportedly warned against his visit.<sup>60</sup>

**Hong Kong Bookseller Gui Minhai Detained Again**

This past year, Chinese authorities first released and then detained Swedish citizen Gui Minhai, one of the five Hong Kong booksellers abducted and brought to mainland China in late 2015.<sup>61</sup> In October 2017, authorities reportedly released Gui from custody after two years of detention for an alleged “traffic offense”<sup>62</sup> and placed him under surveillance at a rented home in Ningbo municipality, Zhejiang province.<sup>63</sup> In January 2018, Gui was forcibly detained by plainclothes Chinese authorities while he was traveling with two Swedish diplomats to Beijing municipality, reportedly to seek a medical examination for neurological symptoms.<sup>64</sup> The Swedish foreign minister condemned the Chinese government’s acts as a “brutal intervention” against a Swedish citizen,<sup>65</sup> while the European Union condemned China’s actions as violations of international rules on consular support and protections against deprivation of liberty.<sup>66</sup> Chinese authorities confirmed that Gui was detained and facing additional criminal charges<sup>67</sup> for “endangering state security,” which included allegations of “illegally providing national secrets and intelligence to overseas groups.”<sup>68</sup>

On February 10, Gui appeared in an interview with the South China Morning Post (SCMP), among other news media outlets, reportedly arranged by the Ministry of Public Security,<sup>69</sup> during which he said Sweden was “hyping up” his case for political reasons and using him as a “chess piece.”<sup>70</sup> Gui has appeared in at least three televised confessions in mainland and Hong Kong media outlets,<sup>71</sup> which the international NGO Safeguard Defenders believes are typically extracted through threats and torture, and used for both domestic and overseas propaganda.<sup>72</sup> Journalists<sup>73</sup> and advocates<sup>74</sup>—including Gui Minhai’s daughter Angela Gui<sup>75</sup>—questioned the journalistic integrity of SCMP, which Safeguard Defenders called “the first English-language, non-state media that collaborated with the Chinese police to circulate a televised confession.”<sup>76</sup>

*Macau*

Macau’s Basic Law does not provide for elections by “universal suffrage,”<sup>77</sup> though its provisions ensure the applicability of the International Covenant on Civil and Political Rights (ICCPR) in Macau<sup>78</sup> and guarantee Macau a “high degree of autonomy” within China.<sup>79</sup> During its 2018 reporting year, the Commission did not observe progress in Macau toward “an electoral system based on universal and equal suffrage” in line with the ICCPR,<sup>80</sup> as recommended by the UN Human Rights Committee.<sup>81</sup> In advance of the November 2018 session of the UN Human Rights Council’s Universal Periodic Review (UPR) of China, pro-democracy group New Macau Association submitted a report calling for direct elections for the Chief Executive, Legislative Assembly, and members of a newly proposed municipal administration body that would replace the Civic and Municipal Affairs Bureau.<sup>82</sup>

This past year, proposed legislative amendments raised concerns regarding Macau’s autonomy and rule of law. In March 2018, the government completed a draft law amending Macau’s Judicial Framework Law to bar foreign judges from hearing national security and defense cases.<sup>83</sup> Portuguese lawyers were alarmed by the

## Developments in Hong Kong and Macau

proposal and feared that it may violate Macau's Basic Law and further erode the independence of the city's judiciary.<sup>84</sup> In December 2017, the government completed a draft cybersecurity law and released the draft for public comment.<sup>85</sup> While the government reportedly stated that the draft law would not compromise freedom of expression,<sup>86</sup> cyber analysts said that based on the low level of cyber attacks in Macau the legislation is not warranted, raising concerns from cyber industries about the interpretation and impact of the law.<sup>87</sup>

In December 2017, Macau's legislature suspended 26-year-old legislator Sulu Sou Ka Hou<sup>88</sup>—one of four pro-democracy legislators elected in September 2017 to the Macau Legislative Assembly (AL), a body composed of 33 total seats, 14 of which are directly elected.<sup>89</sup> The AL voted by secret ballot to suspend Sou 48 days after he took office, a move that lifted his immunity from being prosecuted in court under the charge of "aggravated disobedience" for his role in a 2016 protest<sup>90</sup> and stripped him of his right to legislate.<sup>91</sup> This marked the first time that a legislator has been suspended from his duties since Macau's 1999 handover from Portugal to China.<sup>92</sup> In May 2018, a Macau court found Sou guilty of organizing an unlawful protest and fined him 40,800 patacas (US\$5,100);<sup>93</sup> Sou appealed the sentence in June,<sup>94</sup> which he later withdrew in order to have his suspension at the AL lifted.<sup>95</sup>

Access and travel to Macau were reportedly limited for certain events and individuals this past year. In March 2018, the China Liaison Office in Macau reportedly warned organizers of a literary festival in Macau that the government could not guarantee entry to several book authors,<sup>96</sup> including U.K.-based writer and Mao Zedong biographer Jung Chang.<sup>97</sup> In a March 2018 statement, PEN Hong Kong, an international advocacy organization for freedom of expression, said that the lack of assurance for the entry of authors "infringes directly on the right of freedom of expression" in Macau.<sup>98</sup> Immigration authorities denied pro-democracy and centrist Hong Kong politicians entry to Macau this past year, citing concerns over their participation in activities "which may jeopardize the public security . . . of the Macao SAR."<sup>99</sup> In response to an inquiry about the denial of Hong Kong politician Casper Wong Chun-long from entry, a Macau official cited the prevention of "chaos" for the city.<sup>100</sup>

### Notes to Section VI—Developments in Hong Kong and Macau

<sup>1</sup> See, e.g., Hong Kong Watch, “Major EU Parliament Report Condemns Chinese Interference in Hong Kong’s Internal Affairs,” 16 December 17; Hong Kong Watch, “Hong Kong 20 Years On: Freedom, Human Rights and Autonomy Under Fire,” 15 January 18, 4.

<sup>2</sup> Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, passed 4 April 90, effective 1 July 97, art. 2; Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People’s Republic of China on the Question of Hong Kong, adopted 19 December 84, item 3.

<sup>3</sup> Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, “Country Reports on Human Rights Practices for 2017—China (includes Tibet, Hong Kong, and Macau)—Hong Kong,” 20 April 18, 109. See, e.g., Benjamin Haas, “Enemy of the State? Agnes Chow, the 21-Year-Old Activist Who Has China Worried,” *Guardian*, 3 February 18; Venus Wu, “Hong Kong Lawyers Say Court Affirms ‘Political Screening’ in Elections,” *Reuters*, 14 February 18.

<sup>4</sup> Hong Kong Watch, “Hong Kong 20 Years On: Freedom, Human Rights and Autonomy Under Fire,” 15 January 18; Freedom House, “Freedom in the World 2018—Hong Kong,” last visited 18 July 18, secs. D–E; Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, passed 4 April 90, effective 1 July 97, arts. 25–39. Articles 25 to 38 of the Basic Law list specific protected rights. Article 39 says that the provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labor conventions shall remain in force in Hong Kong.

<sup>5</sup> Xi Jinping, “Secure a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism With Chinese Characteristics for a New Era,” 18 October 17, *Xinhua*, 3 November 17, 21; Suzanne Pepper, “Hong Kong’s Future in the Words of Xi Jinping,” *Hong Kong Focus* (blog), 23 October 17.

<sup>6</sup> State Council, “Government Work Report” [Zhengfu gongzuo baogao], 5 March 18; Chen Lijun, “Integrating With National Development Situation’ Is the Road That Hong Kong Development Must Take” [“Rongru guojia fazhan daju” shi xianggang fazhan de biyou zhi lu], *Overseas Net*, 6 March 18; Office of the Commissioner, Ministry of Foreign Affairs of the People’s Republic of China in Hong Kong Special Administrative Region, “A New Model of ‘Mainland Plus Hong Kong Plus X’ and a New Platform for Belt and Road Cooperation,” 31 August 17.

<sup>7</sup> Hong Kong Information Services Department, “Full Text of Chief Executive’s Interview With Media in Beijing (Part Two)” [Xingzheng zhangguan zai beijing huijian chuanmei tanhua quanwen (er)], 15 December 17.

<sup>8</sup> Charlotte Gao, “Beijing Sets a Harsh Tone for Hong Kong in Two Sessions,” *The Diplomat*, 9 March 18.

<sup>9</sup> “Future Directions in Hong Kong’s Governance: Youth Perspectives,” *University of Hong Kong, Center for Comparative and Public Law*, April 2018, 1, 3, 7.

<sup>10</sup> Electoral Affairs Commission, “By-Election Brief,” 8 March 18; “Contentious By-Elections Disappoint Hong Kong’s Democrats,” *Economist*, 12 March 18; Legislative Council of the Hong Kong Special Administrative Region, “Changes in Membership of the Sixth Legislative Council (2016–2020),” 21 March 18.

<sup>11</sup> Joyce Ng et al., “Barred Hong Kong Localists Vow To Keep Fighting After High Court Decision,” *South China Morning Post*, 16 November 16; Elson Tong, “4 More Elected Pro-Democracy Lawmakers To Be Ousted Following Hong Kong Court Ruling,” *Hong Kong Free Press*, 14 July 17.

<sup>12</sup> National People’s Congress Standing Committee, Interpretation of Article 104 of the “Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China” [Quanguo renmin daibiao dahui changwu weiyuanhui guanyu “zhonghua renmin gongheguo xianggang tebie xingzheng qu jiben fa” di yibailingsi tiaode jieshi], issued 7 November 16.

<sup>13</sup> In the High Court of Hong Kong Special Administrative Region, Court of First Instance, Constitutional and Administrative Law List, No 185 of 2016, HCAL 185/2016 and Miscellaneous Proceedings, No 2819 of 2016, HCMP 2819/2016, 15 November 16, paras. 19, 108; In the High Court of the Hong Kong Special Administrative Region, Court of First Instance, Constitutional and Administrative Law List, No 223 of 2016, HCAL 223–26/2016, and Miscellaneous Proceedings, No 3378–79 and 3381–82 of 2016, HCMP 3378–79/2016, 3381–82/2016, 14 July 17, paras. 19, 22, 34, 95–96, 113, 141–42, 165, 182–83, 229.

<sup>14</sup> Laignee Barron, “Hong Kong’s Democracy Movement Suffers a Blow as Pro-Beijing Rivals Gain Ground in Election,” *Time*, 12 March 18.

<sup>15</sup> Legislative Council of the Hong Kong Special Administrative Region, “Composition of the Legislative Council,” last visited 6 June 18. See also Secretariat Education Service Team, Legislative Council of the Hong Kong Special Administrative Region, “Composition of the Legislative Council,” March 2017; Cal Wong, “What Exactly Is Hong Kong’s Legislative Council?” *The Diplomat*, 6 September 16.

<sup>16</sup> Jeffie Lam, “What Happened to the Disqualifications Backlash? Five Takeaways From Hong Kong’s Legco By-Election,” *South China Morning Post*, 12 March 18.

<sup>17</sup> Hong Kong Bar Association, “Statement of the Hong Kong Bar Association on Disqualification,” 14 February 18; Hong Kong Watch, “Political Screening in Hong Kong: The Disqualification of Candidates and Lawmakers Ahead of the March By-Elections,” 8 March 18, 5.

<sup>18</sup> Government of the Hong Kong Special Administrative Region, “Transcript of Media Session by Secretary for Justice,” 29 January 18.

<sup>19</sup> Benjamin Haas, “Enemy of the State? Agnes Chow, the 21-Year-Old Activist Who Has China Worried,” *Guardian*, 3 February 18; “(LegCo By-Election) Another Candidate Barred From Running,” *The Standard*, 1 February 18; Jeffie Lam, “Why Is Hong Kong Having Its Quietest Election Ever?” *South China Morning Post*, 8 March 18.

<sup>20</sup> Benjamin Haas, “Enemy of the State? Agnes Chow, the 21-Year-Old Activist Who Has China Worried,” *Guardian*, 3 February 18; Tony Cheung, “Demosistō Party Candidate Agnes

## Developments in Hong Kong and Macau

Chow Launches High Court Bid To Have Hong Kong Election Ban Overturned on Bill of Rights Grounds,” South China Morning Post, 8 May 18.

<sup>21</sup> Maya Wang, Human Rights Watch, “Hong Kong’s Great Leap Backward on Political Rights,” 1 February 18; Kris Cheng, “James Chan Third Citizen To Be Barred From Election by Hong Kong Gov’t Over Political Beliefs,” Hong Kong Free Press, 1 February 18.

<sup>22</sup> Kimmy Chung and Tony Cheung, “Political Storm in Hong Kong as Activist Agnes Chow Banned From By-Election Over Party’s Call for City’s ‘Self Determination,’” South China Morning Post, 28 January 18. See also Government of Hong Kong Special Administrative Region, “Transcript of Media Session by Secretary for Justice,” 29 January 18.

<sup>23</sup> In the High Court of the Hong Kong Special Administrative Region, Court of First Instance, Constitutional and Administrative Law List, No 162 of 2016, HCAL 162/2016, 13 February 18, sec. 118; Venus Wu and Pak Yiu, “Hong Kong Court Rules Pro-Independence Stance Must Bar Standing for Election,” Reuters, 13 February 18.

<sup>24</sup> European Union Office to Hong Kong and Macao, “Statement by the Spokesperson on the Decision To Bar Agnes Chow from Running for a Legislative Council By-Election,” 29 January 18; United Kingdom Foreign & Commonwealth Office, “FCO Statement on Forthcoming Legislative Council By-Election in Hong Kong,” 31 January 18.

<sup>25</sup> Hong Kong Bar Association, “Statement of the Hong Kong Bar Association on Disqualification,” 14 February 18; Ernest Kao and Tony Cheung, “Hong Kong Bar Association Laments ‘Political Screening’ of Election Candidates,” South China Morning Post, 14 February 18; Venus Wu, “Hong Kong Lawyers Say Court Affirms ‘Political Screening’ in Elections,” Reuters, 14 February 18.

<sup>26</sup> Kong Tsung-gan, “Overview of Prosecutions and Lawsuits Brought by the Hong Kong Government Against Pro-Democracy Leaders,” Medium, 13 April 18.

<sup>27</sup> Chris Lau, “Hong Kong Student Leaders Joshua Wong, Lester Shum and Five Others Admit to Contempt of Court in Occupy Case,” South China Morning Post, 6 July 17; Chris Lau, “20 Hong Kong Protestors To Face Punishment for Contempt of Court in Occupy Case,” South China Morning Post, 13 October 17.

<sup>28</sup> Ellie Ng, “Defence Says Hong Kong Democracy Activists Face ‘Unconstitutional, Unnecessary’ Charges in Umbrella Movement Trial,” Hong Kong Free Press, 9 January 18; Kris Cheng, “Hong Kong Umbrella Movement Trial: Court Refuses To Scrap ‘Inciting Others To Incite Public Nuisance’ Charge,” Hong Kong Free Press, 13 February 18.

<sup>29</sup> In the High Court of the Hong Kong Special Administrative Region, Court of First Instance, High Court Criminal Case No 408 of 2016 [Xianggang tebie xingzheng qu, gaodeng fayuan yuan song fating gaoyuan xingshi anjian 2016 nian di 408 hao], HCCC 408/2016, 11 June 18, secs. 69–71; Austin Ramzy, “Hong Kong Activist Edward Leung Given 6 Years for Police Clash,” New York Times, 11 June 18; Ben Westcott and Divya Gopalan, “Hong Kong Independence Activist Edward Leung Jailed for Six Years,” CNN, 11 June 18; “Hong Kong Jails Independence Leader Edward Leung for Six Years,” Agence France-Presse, reprinted in Guardian, 10 June 18. See also Jeffie Lam, “Edward Leung Riot Sentence: Too Harsh, or Necessary as Deterrent? Legal Scholars, Politicians Split Over Jail Term for Hong Kong Independence Activist,” South China Morning Post, 26 June 18.

<sup>30</sup> Legislative Council of the Hong Kong Special Administrative Region, Public Order Ordinance (Cap. 245) [Di 245 zhang gong’an tiaoli], issued 17 November 67, amended 29 June 17. See also UN Human Rights Committee, Concluding Observations on the Third Periodic Report of Hong Kong, China, adopted by the Committee at its 107th Session (11–28 March 2013), CCPR/C/CHN–HKG/CO/3, 29 April 13, para. 10. The UN Human Rights Committee noted in its 2013 review of the Hong Kong government’s compliance with the International Covenant on Civil and Political Rights that provisions within the Public Order Ordinance “may facilitate excessive restriction to the Covenant rights.”

<sup>31</sup> Hong Kong Watch, “Lord Patten Criticises Public Order Ordinance Following Sentencing of Edward Leung,” 11 June 18.

<sup>32</sup> Hong Kong Watch, “Twelve Top International Lawyers Warn of Grave Threats to Rule of Law, Judicial Independence and Human Rights in Hong Kong,” 16 October 17; Greg Torode and James Pomfret, “Hong Kong’s Judges Voice Fears Over China Influence in Judiciary,” Reuters, 15 March 18. See also Karen Cheung, “UK Watchdog Urges Fair Trials for Hong Kong Activists; Suggests Stripping Justice Sec. of Prosecution Power,” Hong Kong Free Press, 1 March 18.

<sup>33</sup> See, e.g., “Nobel Peace Prize Nomination for Hong Kong Protest Leaders Angers Beijing,” Radio Free Asia, 2 February 18; Venus Wu, “U.S. Congress Members Nominate Hong Kong’s Joshua Wong for Nobel Peace Prize,” Reuters, 1 February 18; Tom Phillips, “Nobel Peace Prize: US Lawmakers Nominate Hong Kong Protesters,” Guardian, 1 February 18; Eli Meixler, “Hong Kong’s ‘Umbrella Movement’ Has Been Nominated for the Nobel Peace Prize,” Time, 1 February 18. See also “Chairs Release 2017 Annual Report—Announce New Initiatives on Hong Kong & Commemoration of Liu Xiaobo,” Congressional-Executive Commission on China, 5 October 17. At the release of the Commission’s 2017 Annual Report, Senator Marco Rubio and Representative Chris Smith, the Commission’s Chair and Cochair, respectively, announced their intention to nominate Joshua Wong, Nathan Law, and Alex Chow and the entire Umbrella Movement for the Nobel Peace Prize. The Chairs, along with 10 other members of the U.S. Congress, subsequently made the nomination in February 2018 to the Nobel Peace Prize Committee.

<sup>34</sup> “Hong Kong Activist Joshua Wong Jailed for Six Months,” BBC, 17 August 17; Alan Wong, “Hong Kong Protest Leaders Are Freed on Bail To Pursue Appeal,” New York Times, 24 October 17.

<sup>35</sup> In the High Court of the Hong Kong Special Administrative Region, Court of Appeal, Criminal Jurisdiction, Application for Review No. 4 of 2016 (On Appeal From ESCC No. 2791 of 2015) [Xianggang tebie xingzheng qu, gaodeng fayuan shangsu fating, xingshi sifa guanxia quan, fuhe shenqing, fuhe shenqing anjian 2016 nian di 4 hao (yuan dongqu caipan fayuan xingshi anjian 2015 nian di 2791 hao), CAAR 4/2016, 17 August 17, paras. 7, 19–21, 174; Jasmine Siu, “Joshua Wong and Other Jailed Hong Kong Student Leaders See Political Careers Halted,” South China



## Developments in Hong Kong and Macau

Morning Post, 18 August 17. See also Legislative Council of the Hong Kong Special Administrative Region, Public Order Ordinance (Cap. 245) [Di 245 zhang gong'an tiaoli], issued 17 November 67, amended 29 June 17, sec. 18.

<sup>36</sup>James Griffiths, "Joshua Wong and Two Other Umbrella Movement Leaders Jailed in Hong Kong," CNN, 17 August 17; Jasmine Siu, "Joshua Wong and Other Jailed Hong Kong Student Leaders See Political Careers Halted," South China Morning Post, 18 August 17.

<sup>37</sup>In the Court of Final Appeal of the Hong Kong Special Administrative Region, Final Appeal No. 8 of 2017 (Criminal) (On Appeal From CAAR No. 4 of 2016), FACC 9/2017, 6 February 18, paras. 105, 120, 126.

<sup>38</sup>Ibid.

<sup>39</sup>Karen Cheung, "Hong Kong Democracy Activists Joshua Wong, Alex Chow, Nathan Law Free To Go After Occupy Sentence Appeal," Hong Kong Free Press, 6 February 18.

<sup>40</sup>Legislative Council, Bills Committee on Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill, "Background Brief Prepared by the Legislative Council Secretariat," 9 February 18, last updated 24 April 18, items 6–13.

<sup>41</sup>"Cooperation Plan for Mainland and Hong Kong Special Administrative Region Regarding the Implementation of 'Co-Location' at the Guangzhou-Shenzhen-Hong Kong High Speed Rail West Kowloon Station" [Neidi yu xianggang tebie xingzhengqu guanyu zai guangshengang gaotie jiulong zhan sheli kou'an shishi 'yidi liangjian' de hezuo anpai], 18 November 17, reprinted in National People's Congress, 28 December 17.

<sup>42</sup>Shadow Li and Cao Yin, "Top Legislature Endorses Joint Checkpoint for Express Rail Linking HK and Mainland," China Daily, 28 December 17. See also Shi Longhong, "National's People's Congress Standing Committee Approved 'Regarding the Implementation of 'Co-Location' at the Guangzhou-Shenzhen-Hong Kong High Speed Rail West Kowloon Station'" [Quanguo renda changweihui pizhun "neidi yu xianggang tebie xingzhengqu guanyu zai guangshengang gaotie xi jiulong zhan sheli kou'an shishi 'yidi liangjian' de hezuo anpai"], Xinhua, 27 December 17.

<sup>43</sup>Hong Kong Special Administrative Region Government, "Customs, Immigration and Quarantine Arrangements of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link," 3.

<sup>44</sup>Legislative Council of the Hong Kong Special Administrative Region, Bills Committee on Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill, "Background Brief Prepared by the Legislative Council Secretariat," 9 February 18, last updated 24 April 18, items 11–13; Legislative Council of the Hong Kong Special Administrative Region of the People's Republic of China, Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-Location) Bill, 26 January 18.

<sup>45</sup>"Co-Location Bill Passed," Hong Kong Government News, 14 June 18; Kimmy Chung et al., "Hong Kong's Controversial China Rail Checkpoint Bill Finally Passed by Lawmakers Amid Protests, Delays and Expulsions," South China Morning Post, 14 June 18.

<sup>46</sup>Statement of the Hong Kong Bar Association on the Decision of the NPCSC of 27 December 2017 on the Co-operation Agreement Between the Mainland and the HKSAR on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement," 28 December 17, items 5, 6, 11. See also Elizabeth Cheung, "Hong Kong Bar Association 'Appalled' by Approval of Joint Checkpoint Plan, Saying It 'Irreparably' Breaches Basic Law," South China Morning Post, 29 December 17.

<sup>47</sup>Hong Kong Bar Association, "Statement of the Hong Kong Bar Association on the Decision of the NPCSC of 27 December 2017 on the Co-operation Agreement Between the Mainland and the HKSAR on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement," 28 December 17, item 7.

<sup>48</sup>Kevin Carrico, Hong Kong Watch, "Academic Freedom in Hong Kong Since 2015: Between Two Systems," January 2018, 1, 3–6.

<sup>49</sup>Ibid., 4.

<sup>50</sup>Jeffie Lam, "Why Beijing Came Down So Hard on Pro-democracy Academic Benny Tai Over Hong Kong Independence Comments," South China Morning Post, 13 April 18; Kevin Carrico, Hong Kong Watch, "Academic Freedom in Hong Kong Since 2015: Between Two Systems," January 2018, 4.

<sup>51</sup>"Dismissal Call Piles Pressure on Hong Kong Academic Over Independence Remarks," Reuters, 3 April 18; "Row Over Law Scholar's Independence Remarks Sparks Concern in Hong Kong," Radio Free Asia, 5 April 18. See also Liu Lulu, "Hong Kong Must Enact Basic Law Article 23 To Rein In Secession," Global Times, 2 April 18.

<sup>52</sup>Hong Kong Special Administrative Region Government, "Response by HKSAR Government to Media Enquiries," 30 March 18; "Row Over Law Scholar's Independence Remarks Sparks Concern in Hong Kong," Radio Free Asia, 5 April 18.

<sup>53</sup>"Row Over Law Scholar's Independence Remarks Sparks Concern in Hong Kong," Radio Free Asia, 5 April 18; International Federation of Journalists, "Hong Kong Independence Comments Lead to Freedom of Speech Row," 4 June 18; Kris Cheng, "Attacks Against Academic Benny Tai May Be Paving Way for Controversial National Security Law, Scholars Warn," Hong Kong Free Press, 6 April 18.

<sup>54</sup>Austin Ramzy, "Hong Kong May Ban Political Party That Seeks Independence From China," New York Times, 17 July 18.

<sup>55</sup>Austin Ramzy, "As Hong Kong Clamps Down, a Tiny Political Party Finds Itself in the Spotlight," New York Times, 6 August 18.

<sup>56</sup>U.K. Foreign & Commonwealth Office, "FCO Statement on the Hong Kong National Party," 17 July 18.

<sup>57</sup>Hong Kong Journalists Association, "Public Evaluation of Hong Kong Press Freedom Drops to New Low," 11 April 18.

<sup>58</sup>Centre for Comparative and Public Law, University of Hong Kong, Hong Kong Human Rights Monitor, Hong Kong Union, et al., "Joint Submission of NGOs for the Universal Periodic

## Developments in Hong Kong and Macau

Review (3rd Cycle): Hong Kong Special Administrative Region (HKSAR) China,” March 2018, item 12.

<sup>59</sup>Demosistō, “Statement To Condemn the Ministry of State Security’s Decision To Detain Demosistō Members,” 27 August 18, 1–2.

<sup>60</sup>Tom Phillips and Benjamin Haas, “British Conservative Party Activist Barred From Entering Hong Kong,” *Guardian*, 11 October 17. See also Benedict Rogers, “Why the World Must Wake Up to China’s Threat to Freedom in Hong Kong,” *Guardian*, 12 October 17.

<sup>61</sup>Te-Ping Chen, “China Defends Detention of Swedish Bookseller Gui Minhai,” *Wall Street Journal*, 25 February 18; Tom Phillips, “‘A Very Scary Movie’: How China Snatched Gui Minhai on the 11.10 Train to Beijing,” *Guardian*, 21 February 18. See also CECC, 2016 Annual Report, 6 October 16, 329–31. For more information on Gui Minhai, see the Commission’s Political Prisoner Database record 2016-00090.

<sup>62</sup>Danny Lee and Phila Siu, “Missing Hong Kong Bookseller Gui Minhai ‘Released,’ but Family Cannot Find Him,” *South China Morning Post*, 24 October 17; Austin Ramzy, “China Is Said To Free Hong Kong Bookseller, but Family Says He’s Missing,” *New York Times*, 24 October 17; “Sweden Demands Immediate Release of Citizen Detained in China,” *Reuters*, 23 January 18.

<sup>63</sup>Tom Phillips, “‘A Very Scary Movie’: How China Snatched Gui Minhai on the 11.10 Train to Beijing,” *Guardian*, 21 February 18; Mu Xuequan, “China Focus: Gui Minhai Detained Over Allegedly Endangering State Security,” *Xinhua*, 10 February 18; Phila Siu, “Transcript of Gui Minhai’s Government-Arranged Interview: ‘Swedish Government Used Me,’” *South China Morning Post*, 10 February 18.

<sup>64</sup>Chris Buckley, “Chinese Police Seize Publisher From Train in Front of Diplomats,” *New York Times*, 22 January 18; “Sweden Condemns China’s ‘Brutal’ Seizure of Bookseller Gui Minhai,” *Agence France-Presse*, reprinted in *The Local*, 6 February 18.

<sup>65</sup>Government Offices of Sweden, “Statement by Margot Wallström Regarding the Detention of Swedish Citizen Gui Minhai,” 5 February 18; “Sweden Condemns China’s ‘Brutal’ Seizure of Bookseller Gui Minhai,” *Agence France-Presse*, reprinted in *The Local*, 6 February 18. See also Government Offices of Sweden, “Statement on Swedish Citizen Gui Minhai,” 8 March 18; Government Offices of Sweden, “Statement in Connection With the Detention of Swedish Citizen Gui Minhai,” 23 January 18.

<sup>66</sup>European Union, “Statement by High Representative/Vice-President Federica Mogherini on the Continued Detention of Gui Minhai in China,” 15 February 18.

<sup>67</sup>Mu Xuequan, “China Focus: Gui Minhai Detained Over Allegedly Endangering State Security,” *Xinhua*, 10 February 18; Ministry of Foreign Affairs, “Foreign Ministry Spokesperson Geng Shuang’s Regular Press Conference on February 12, 2018,” 12 February 18; “China Confirms Arrest of Bookseller Gui Minhai,” *Al Jazeera*, 6 February 18.

<sup>68</sup>Bai Yunyi, “HK Bookseller Confesses to Truth About So-called ‘Disappearance,’ Says Sweden ‘Manipulated’ Him,” *Global Times*, 10 February 18.

<sup>69</sup>Phila Siu, “Transcript of Gui Minhai’s Government-Arranged Interview: ‘Swedish Government Used Me,’” *South China Morning Post*, 10 February 18. See also Javier C. Hernández, “A Hong Kong Newspaper on a Mission To Promote China’s Soft Power,” *New York Times*, 31 March 18.

<sup>70</sup>Phila Siu, “Transcript of Gui Minhai’s Government-Arranged Interview: ‘Swedish Government Used Me,’” *South China Morning Post*, 10 February 18; “Detained Bookseller Gui Minhai Slams Sweden for ‘Hyping Up Case’ for Political Reasons,” *People’s Daily*, 11 February 18; Te-Ping Chen, “Bookseller Detained in China Says Sweden Is Using Him as a ‘Chess Piece’” *Wall Street Journal*, 11 February 18.

<sup>71</sup>Safeguard Defenders, “Scripted and Staged: Behind the Scenes of China’s Forced TV Confessions,” April 2018, 25–27.

<sup>72</sup>*Ibid.*, 4–5.

<sup>73</sup>*China Digital Times*, “SCMP Confronted Over Forced Confession Coverage,” 18 April 18.

<sup>74</sup>*Ibid.* See also Safeguard Defenders, “Scripted and Staged: Behind the Scenes of China’s Forced TV Confessions,” April 2018, 71.

<sup>75</sup>“An Exchange Between Gui Minhai’s Daughter and the Post’s Editor-in-Chief,” *South China Morning Post*, 18 April 18. See also the Long Arm of China: Global Efforts To Silence Critics from Tiananmen to Today, Hearing of the Congressional-Executive Commission on China, 24 May 16, Testimony of Angela Gui, Daughter of Gui Minhai.

<sup>76</sup>Safeguard Defenders, “Scripted and Staged: Behind the Scenes of China’s Forced TV Confessions,” 10 April 18, 71.

<sup>77</sup>Basic Law of the Macao Special Administrative Region of the People’s Republic of China [Zhonghua renmin gongheguo aomen tebie xingzheng qu jiben fa], passed 31 March 93, effective 20 December 99, arts. 47, 68 and annexes I, II.

<sup>78</sup>Basic Law of the Macao Special Administrative Region of the People’s Republic of China [Zhonghua renmin gongheguo aomen tebie xingzheng qu jiben fa], passed 31 March 93, effective 20 December 99, art. 40.

<sup>79</sup>*Ibid.*, arts. 12, 16, 22.

<sup>80</sup>International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 25(b). Article 25(b) of the ICCPR guarantees the right “to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage . . .”

<sup>81</sup>UN Human Rights Committee, Concluding Observations on the Initial Report of Macao, China, adopted by the Committee at its 107th session (11–28 March 2013), CCPR/C/CHN-MAC/CO/1, 29 April 13, para. 7; UN Human Rights Committee, Report on Follow-up to the Concluding Observations of the Human Rights Committee, CCPR/C/112/2, 8 December 14, 23.

<sup>82</sup>New Macau Association, “Submission of the New Macau Association to the United Nations Human Rights Council for the 31st Session of Universal Periodic Review on Macau, China,” 28

## Developments in Hong Kong and Macau

March 18, 1–3. See also Nelson Moura, “Municipal Body Public Consultation Report Without Clear Data on Opposing Views,” Macau News Agency, 2 March 18.

<sup>83</sup> Farah Master, “Macau Move To Curtail Foreign Judges Sparks Concerns Over China’s Growing Control,” Reuters, 7 March 18.

<sup>84</sup> *Ibid.*

<sup>85</sup> “Public Consultation on Cyber Security Law Runs Until Jan 24,” Macau Daily Times, 12 December 17.

<sup>86</sup> *Ibid.*

<sup>87</sup> Cross-Border Chinese Q&A, Culture & Media Education Foundation, “What Is the Macau Government’s ‘Cybersecurity Law’ Aimed At?” [Aomen zhengfu de “wangluo anquan fa” jian zhi hefang?], In Media HK, 24 January 18.

<sup>88</sup> “Person of the Year: Sulu Sou: An Inconvenient Voice,” Macau Daily Times, 29 December 17.

<sup>89</sup> Kris Cheng, “Macau Election: Pro-Democracy Camp Maintains 4 of 33 Seats, With Youngest Ever Lawmaker Elected at 26,” Hong Kong Free Press, 18 September 17; Kelvin Chan, “Young Democracy Activist Among Macau Election Winners,” Associated Press, 18 September 17.

<sup>90</sup> “Person of the Year: Sulu Sou: An Inconvenient Voice,” Macau Daily Times, 29 December 17.

<sup>91</sup> Kris Cheng, “Macau’s Youngest Ever Pro-Democracy Lawmaker Suspended Over ‘Aggravated Disobedience’ Charge,” Hong Kong Free Press, 4 December 17.

<sup>92</sup> Raquel Carvalho, “Macau’s Youngest Lawmaker Sulu Sou, Suspended From Office and Found Guilty Over 2016 Protest, Hopes To Retake His Seat,” South China Morning Post, 2 June 18.

<sup>93</sup> *Ibid.*; Macau Special Administrative Region Court of First Instance, Fourth Criminal Court, Independent Court Basic Law Criminal Case No. CR4–17–0194–PCS, Judgment [Aomen tebie xingzheng qu chujī fayuan, di si xingshi fating, duren ting putong xingshi an di CR4–17–0194–PCS hao, panjue shu], 29 May 18.

<sup>94</sup> Sheyla Zandonai, “Sulu Sou Confirms Appeal of Sentence For Illegal Protest,” Macau News Agency, 26 June 18.

<sup>95</sup> Cecilia U, “Breaking News: Sulu Sou Withdraws Appeal To Cease Suspension,” Macau News Agency, 27 June 18.

<sup>96</sup> “The Central Government’s Liaison Office in Macau Suggests Cancellation of Writer’s Presence in the Macau Literary Festival,” Macau News, 12 March 18; “Writer Jung Chang Entry in Macau Not Guaranteed by Authorities,” Macau News, 5 March 18.

<sup>97</sup> “The Central Government’s Liaison Office in Macau Suggests Cancellation of Writer’s Presence in the Macau Literary Festival,” Macau News, 12 March 18.

<sup>98</sup> PEN Hong Kong, “Statement on International Authors Being Denied Access to Macau,” 7 March 18.

<sup>99</sup> See e.g., Kris Cheng, “Macau Denies Entry to Member of Centrist Hong Kong Party, Citing ‘Intention’ To Jeopardise Public Security,” Hong Kong Free Press, 19 December 17; Ng Kang-chung, “Hong Kong Politician Barred From Macau Ahead of 18th Handover Anniversary Over Security Concerns,” South China Morning Post, 20 December 17; Karen Cheung, “Macau Denies Entry to Pro-democracy District Councillor, Citing ‘Intention’ To Jeopardise Public Security,” Hong Kong Free Press, 4 September 17.

<sup>100</sup> “Macau Denied People’s Entry To Avoid Chaos,” Macau Daily Times, 22 December 17.