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HONG KONG'S DEMOCRATIC FUTURE

Report of the Standing Committee on Foreign Affairs and International Development

**Dean Allison
Chair**

JUNE 2015

41st PARLIAMENT, SECOND SESSION

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THE STANDING COMMITTEE ON FOREIGN AFFAIRS AND INTERNATIONAL DEVELOPMENT

has the honour to present its

ELEVENTH REPORT

Pursuant to its mandate under Standing Order 108(2), the Committee has studied the situation in Hong Kong and has agreed to report the following:

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HONG KONG'S DEMOCRATIC FUTURE

INTRODUCTION

A. The Committee's Study

The House of Commons Standing Committee on Foreign Affairs and International Development (the Committee) studied the political situation in Hong Kong in the context of the proposed framework for the election of Hong Kong's chief executive in 2017, and concerns that have been raised both within Hong Kong and internationally about what that framework means for Hong Kong's democratic future.¹ The Committee held three meetings with witnesses, receiving testimony from several academics; representatives of two non-governmental organizations, Canada-Hong Kong Link and the Hong Kong Democratic Foundation; two leaders of student organizations, the Hong Kong Federation of Students and Scholarship; and, two leaders of Hong Kong's pro-democracy movement. The complete list of witnesses is contained in Appendix A, and the briefs submitted to the Committee in Appendix B.

B. Overview

Important political developments are underway in Hong Kong, a city that was once a British colony and has been a special administrative region of the People's Republic of China (China) since 1997. Based on a treaty that was agreed to by the Chinese and British governments and commitments that were made in the lead-up to that handover of sovereignty, and in the years since, many people in Hong Kong expected and have sought a move towards a more democratic model of governance. That process has unfolded gradually, and may be at risk of stalling.

In 2007, ten years after the handover was completed, the Standing Committee of China's National People's Congress (NPC)² decided that Hong Kong's chief executive, the head of the Special Administrative Region government, could be elected by universal suffrage in 2017. After public consultations were held, at the end of August 2014 the Standing Committee of the NPC issued another decision outlining the framework that would guide that electoral process. Its content provoked concern among those in Hong Kong who feel that it is overly restrictive and would not result in a real choice for Hong Kong people.

Opponents of the current package of electoral proposals hold the view that those proposals do not respect the true meaning and definition of universal suffrage. More

1 House of Commons, Standing Committee on Foreign Affairs and International Development (FAAE), [Minutes of Proceedings](#), 2nd Session, 41st Parliament, 24 February 2015; and, [Minutes of Proceedings](#), 2nd Session, 41st Parliament, 12 March 2015.

2 The National People's Congress (NPC) is the national legislature of the People's Republic of China. It is composed of 2,989 delegates. The NPC approves the president, and members of the State Council, as well as the membership of the Standing Committee of the NPC. Economist Intelligence Unit (EIU), "China," *Country Report*, generated on 26 May 2015.

broadly, some are also concerned about the preservation of Hong Kong's high degree of autonomy, even though its systems and way of life were guaranteed to remain unchanged for at least 50 years after the handover. The desire of those who want an electoral framework that more closely aligns with their democratic aspirations and understanding of past promises culminated in the 'Umbrella Movement,' the name given to the pro-democracy protests that gripped the city from September to December 2014. At their height, these protests involved tens of thousands of Hong Kong people, including many students. The movement was given that name because in the early stages of action some people had to use their umbrellas – a ubiquitous everyday tool to manage the sun and the rain in Hong Kong – to protect themselves against police tear gas.

In Canada, a motion adopted unanimously by the House of Commons in November 2014 reflected the concern of parliamentarians regarding events in Hong Kong at that time. It stated:

That this House reiterates Canada's continued support for freedom of expression and association in Hong Kong, including the right to peaceful protest; affirms Canada's support for the democratic aspirations of Hong Kong residents for genuine universal suffrage in the election of political leaders; stands with the people of Hong Kong who aspire for democracy, peace and the protection of human rights; and calls on all sides to exercise restraint during demonstrations, fully respect existing agreements in respect to the "One Country, Two Systems" principle, and open a meaningful and constructive dialogue to seek a mutually acceptable plan for electoral reform.³

Some witnesses who appeared before the Committee noted the importance of such statements, which convey international concern and support for the people of Hong Kong. Indeed, the Committee undertook this study because it is of the view that what has been unfolding in Hong Kong is not only relevant for Hong Kong, but also for members of the international community – including Canada – that are concerned with respect for democratic rights and freedoms and that believe strongly in the importance of international norms and agreements.

The report that follows summarizes the issues brought to the Committee's attention in relation to the situation in Hong Kong. It begins with a historical perspective on Hong Kong's political development, which is necessary for understanding events today, including the provisions of the Sino-British treaty that led to Hong Kong's return to China in 1997, and key articles of the constitutional document, the Basic Law, which ensures Hong Kong's high degree of autonomy. The next chapter addresses decisions affecting the 2017 election of Hong Kong's chief executive and related reactions. The report then examines the situation in Hong Kong from a broader perspective in consideration of different political, economic and social challenges, including what appears to be an environment of deepening polarization. A final chapter addresses the role of Canada in responding to these developments. Building on those observations, the report concludes with the Committee's recommendations to the Government of Canada.

3 House of Commons, [Debates](#), 2nd Session, 41st Parliament, 19 November 2014.

ONE COUNTRY, TWO SYSTEMS

Many of the witnesses who appeared before the Committee drew connections between contemporary issues in Hong Kong and commitments made in the past. Comments focused in particular on the terms of the treaty reached between Britain and China on Hong Kong's return to China and understandings of what it meant. Hong Kong's Basic Law was also an anchor point for testimony, including with respect to witness views on its implementation and on the pace and nature of democratic reform in Hong Kong since 1997. In order to contextualize these views, the report first summarizes these documents and decisions. The elements highlighted below are focused on the issues of governance, elections and universal suffrage, as those were the key themes raised by witnesses.

A. The Joint Declaration

Hong Kong was under British rule for more than 150 years. The territory was historically, and continues to be, an international financial centre and destination of foreign direct investment in Asia. In 1984, as the end of Britain's lease over the crown colony came into view, the governments of Margaret Thatcher and Deng Xiaoping reached a formal agreement to transfer sovereignty over the territory back to China. That handover took effect on 1 July 1997.

The [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](#) was signed in Beijing in December 1984. It declared that Hong Kong would become a Special Administrative Region (SAR) of China. Furthermore, while it is "directly under the authority" of the central government in China, the Joint Declaration stipulates that Hong Kong will "enjoy a high degree of autonomy." The Joint Declaration also provides that the Hong Kong SAR "will be vested with executive, legislative and independent judicial power, including that of final adjudication." While the SAR government is responsible for the maintenance of public order, foreign affairs and defence are the responsibilities of China's central government.

On governance, the Joint Declaration states that Hong Kong's government "will be composed of local inhabitants." Regarding the position of chief executive, who is the head of the SAR government, the document states that the individual occupying that position "will be appointed by [China's] Central People's Government on the basis of the results of elections or consultations to be held locally."

The Joint Declaration further stipulates that Hong Kong's "social and economic systems" will "remain unchanged," along with the city's "life-style." Rights and freedoms, including those of speech, the press, assembly, association, and of academic research are to be ensured by law in Hong Kong. Private property, business ownership and foreign investment are also to be protected by law. According to the Joint Declaration, all of these policies are to "remain unchanged for 50 years." This treaty was [registered](#) with the United Nations.

B. The Basic Law

The Joint Declaration's provisions were enshrined and elaborated on in [*The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*](#) (the Basic Law). That document, which is often referred to as Hong Kong's "mini-constitution," was promulgated by China in April 1990.⁴ It is based on the overarching principle of 'one country, two systems'. What that principle means, in essence, is that Hong Kong is part of China and under China's sovereignty, but maintains its capitalist economy, legal system and general way of life.

The Basic Law [guarantees](#) Hong Kong's "high degree of autonomy," including its own executive, legislature and judiciary. Common and customary law that were in force in Hong Kong prior to the handover are maintained, in accordance with the Basic Law. Moreover, under [Article 39](#), the provisions of the [*International Covenant on Civil and Political Rights*](#) (ICCPR) and the [*International Covenant on Economic, Social and Cultural Rights*](#) as applied to Hong Kong remain in force in Hong Kong.⁵ The ICCPR, it should be noted, includes a number of protections of democratic rights and freedoms. For example, under Article 25(a): "Every citizen shall have the right and the opportunity ... without unreasonable restrictions: (a) To take part in the conduct of public affairs, directly or through freely chosen representatives."

According to the Basic Law, the [power](#) to interpret and to amend it is vested with the Standing Committee of the NPC. Prior to being submitted to that body, bills amending the Basic Law must obtain the approval of two-thirds of the members of Hong Kong's Legislative Council and the chief executive.⁶

1. The Chief Executive

When Hong Kong was a British colony, it was ruled under the authority of a Governor who was appointed directly by the Crown. Since 1997, the head of the Hong Kong SAR government has, as noted, been a [chief executive](#). That person must be a Chinese citizen who is a permanent resident of Hong Kong, and is accountable to China's central government and the Hong Kong SAR in accordance with the provisions of the Basic Law.

The term of office is five years with a maximum of two consecutive terms. The powers and functions exercised by the chief executive are [outlined](#) in the Basic Law. They include the power to decide on government policies and to issue executive orders, to nominate – and to recommend the removal of – principal government officials, to appoint or remove judges of the courts, in accordance with legal procedures, and to implement

4 Adopted at the Third Session of the Seventh NPC on 4 April 1990; promulgated by Order No. 26 of the President of the People's Republic of China on 4 April 1990; effective as of 1 July 1997.

5 Note: China has signed but not ratified the *International Covenant on Civil and Political Rights* (ICCPR).

6 Under Article 159 of the Basic Law, the power to amend the Basic Law is vested in the NPC. The power to propose bills for amendments to the Basic Law is vested in the Standing Committee of the NPC, the State Council and the Hong Kong Special Administrative Region (SAR).

directives issued by China's central government in respect of the relevant matters provided for in the Basic Law.

Regarding the determination of who occupies the position, [Article 45](#) establishes that:

The Chief Executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People's Government.

The method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures.⁷

The Hong Kong SAR's first chief executive was approved by a 400-member Selection Committee. [Annex I](#) of the Basic Law declared that the chief executive would thenceforth be elected "by a broadly representative Election Committee." For the 2002 election, it was composed of 800 members from four sectors: 200 from the industrial, commercial and financial sectors; 200 from the professions; 200 from the labour, social services, religious and other sectors; and 200 from the members of the Legislative Council and other political bodies.⁸ The detailed composition of these sectors is prescribed by the Hong Kong SAR government.⁹ During this initial period, candidates had to be approved by at least 100 members of the Election Committee, with each member restricted to nominating one candidate. The Election Committee was subsequently [expanded](#) to 1,200 members for the 2012 election.¹⁰

In April 2004, the Standing Committee of the NPC issued a [decision](#) on the methods for selecting Hong Kong's chief executive and for forming its Legislative Council, i.e., a decision on the issue of universal suffrage. After commenting that Hong Kong society had not yet reached a consensus on the matter, the 2004 decision stated that "conditions do not exist for the selection of the Chief Executive by universal suffrage" in 2007, nor for the formation of the Legislative Council for its fourth term in 2008.¹¹

7 Simon Young, Professor and Associate Dean, Faculty of Law, University of Hong Kong, stressed the importance of recognizing that no matter how "Hong Kong selects the chief executive, it's ultimately for the central government to appoint, and the central government has repeatedly said that's a substantive power, that it's not just a rubber stamp." FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

8 Professor Young explained that, while the Election Committee did expand to 800 members for the 2002 election of the chief executive, "there was no election because no one ran against Mr. C.H. Tung." At the same time, Professor Young noted that the 800-member Election Committee "had a base of maybe about 200,000, so for the first time you had some public involvement in the choice of that person." FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

9 For the 2012 election, the 1,200 members of the Election Committee were derived from 38 [sub-sectors](#). Regarding the actual number of voters attached to these sub-sectors, there were 15,927 bodies [registered](#) in 2011 and 233,572 individuals. The full report of the 2012 chief executive election is available on the [website](#) of Hong Kong's Electoral Affairs Commission.

10 The Basic Law, Instrument 2.

11 The Basic Law, Instrument 19.

In December 2007, the Standing Committee of the NPC issued another [decision](#), which proclaimed that the election of the fifth chief executive in 2017 “may be implemented by the method of universal suffrage,” and that the election of all members of the Legislative Council may be implemented by the same method thereafter. The Standing Committee also put forward its view that, in selecting the chief executive by universal suffrage, “a broadly representative nominating committee shall be formed.” It further stated that the “nominating committee may be formed with reference to” the existing Election Committee. It would then, “in accordance with democratic procedures nominate a certain number of candidates for the office of the Chief Executive, who is to be elected through universal suffrage by all registered electors of the Hong Kong [SAR], and to be appointed by the Central People’s Government.”¹²

2. The Legislative Council

[Article 68](#) of the Basic Law outlines the formation of Hong Kong’s Legislative Council. It provides that:

The Legislative Council of the Hong Kong Special Administrative Region shall be constituted by election.

The method for forming the Legislative Council shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the election of all the members of the Legislative Council by universal suffrage.

Following a 2010 [decision](#) of the Standing Committee of the NPC, which amended Annex II of the Basic Law, the number of legislators expanded from 60 in 1998 to 70 for the most recent elections in 2012. Of those, 35 members are now elected directly by what are known as “geographical constituencies” with the other 35 members elected by what are known as “functional constituencies” (i.e., industry and professional sectors).¹³

The pro-government Democratic Alliance for the Betterment and Progress of Hong Kong is currently the largest party in the Legislative Council, with 13 seats. The pro-business Liberal Party has 5 seats, and the pro-government Hong Kong Federation of Trade Unions has 6 seats. The pro-government Business and Professionals Alliance for Hong Kong has 7 seats. Pro-democracy parties (also known as the “pan-democrats”) hold 27 seats in the Legislative Council, including 6 held by the Democratic Party and 6 by the Civic Party.¹⁴

12 The Basic Law, Instrument 21.

13 In the 2012 election, there were 3,466,201 registered Hong Kong electors in the [geographical constituencies](#), and 240,735 registered electors in the [functional constituencies](#) (224,575 individuals), not including the second District Council. The full report of the 2012 Legislative Council elections is available on the [website](#) of Hong Kong’s Electoral Affairs Commission.

14 EIU, “Hong Kong,” *Country Report*, generated on 26 May 2015.

A HIGH DEGREE OF AUTONOMY

A. Frustrations with Gradualism

A number of witnesses addressed Hong Kong's political history. In the process, several witnesses referred to the foundational documents and decisions summarized above. It is clear that an awareness of both is critical to understanding current political dynamics and the views held by Hong Kong people. The Committee learned about the gradualism that has characterized Hong Kong's process of democratic development, and the impatience and sense of unmet promises that this approach has engendered.

Dalena Wright, Senior Fellow, Ash Center for Democratic Governance and Innovation, Harvard Kennedy School, focused her remarks on the Sino-British negotiations that led to the Joint Declaration, and the conditions that Britain left behind in Hong Kong. She observed that, "in many ways it left a very admirable legacy." Rights and freedoms, "an excellent judiciary," an "effective regulatory system" and "an exemplary civil service" were among those characteristics and institutions she listed. With that said, Ms. Wright underlined that ensuring that rights and freedoms are further refined and that they endure requires "a governing body that believes in these freedoms and that guarantees and sustains them." She argued,

This is what Britain was unable to leave behind. They were unable to leave democratic institutions that might accomplish this. Constitutional development before handover was very tentative and was very shallowly rooted, and it has been difficult for such institutions as had been developed to flourish and deepen ever since the handover.¹⁵

The factors contributing to this situation, she noted, are complex, but the essential issues were Britain's late start with respect to institutional development prior to the handover, divided views on governance within Hong Kong at the time, and China's general recalcitrance. As Ms. Wright explained, "China in those days accepted Hong Kong as it was, not as it might be, and they resisted democratic development."¹⁶

Martin C.M. Lee, Senior Counsel, and founder of Hong Kong's Democratic Party, told the Committee that it was recognized at the time of the Joint Declaration that for Hong Kong to continue to enjoy the "core values" in place from British rule, "there would have to be a sea change in our political structure." Hong Kong's colonial structure had to be replaced with a new system of governance and one that would enable Hong Kong's high degree of autonomy, as was committed to in the Joint Declaration. Pointing to present day challenges, Mr. Lee suggested that those essential conditions have not yet been realized in Hong Kong's governance structure. He posed the following question to the Committee: "How could the people of Hong Kong rule Hong Kong with a high degree of autonomy when the people of Hong Kong don't even elect their leader and all members of the legislature?" In his view, "That is the problem."¹⁷

15 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

16 Ibid.

17 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 10 March 2015.

Ms. Wright explained that the solution arrived at between China and Britain – “gradualism” – was about proceeding slowly. The understanding, at least in Britain, was that “democracy would come.” However, the timing “was never fully stipulated,” a historical reality that she believes is contributing to events that are unfolding today.¹⁸ Mr. Lee also acknowledged that the Joint Declaration did not contain any timeframes other than specifying that “‘one country, two systems’ would last for only 50 years.”¹⁹

As can be seen from the preceding section, the Joint Declaration also contained no mention of “universal suffrage.” That issue was first addressed in the Basic Law and in subsequent decisions and interpretations of it by the Standing Committee of the NPC. Simon Young, Professor and Associate Dean, Faculty of Law, University of Hong Kong, pointed out that the Joint Declaration itself only refers to “the power of the central government to appoint the chief executive of Hong Kong on the basis of either elections or consultations done locally.” He added in respect of the Legislative Council that the Joint Declaration “talks about it being constituted by elections, and that’s it.” Professor Young summarized the ambiguity in commenting that the Joint Declaration “doesn’t say anything else about what form or shape those elections will take.”²⁰

Ms. Wright indicated that the exact language contained in the Joint Declaration must be understood in the context of the negotiating dynamics and national positions taken at the time. She told the Committee that “China wanted no mention of elections or future governance in the joint declaration.” From China’s standpoint, “They were taking a snapshot of what Hong Kong was in 1984 and that’s what they wanted to continue and figured that governance and institutions would be decided on later in the context of the basic law.” Nevertheless, arguing the need for the Joint Declaration to generate the support of the people, Britain “persuaded China to take some language on the subject of democracy or on the subject of future governance and they put forth any number of proposals in that summer of 1984.” Even so, Ms. Wright said that these proposals “were constantly rejected by China.” But as the final negotiating deadline approached, “the British finally came in with the language and China in desperation took the final version.” It is for that reason, she noted, that “it was not well considered, well thought out, or deeply significant language.”²¹

The Committee was told that Hong Kong’s overall path towards democratic governance has been a slow and iterative one. Ms. Wright emphasized that Hong Kong people “have been waiting for a satisfactory, permanent, and truly representative form of government not just since handover, but indeed since 1984, when the first indirect elections were held in Hong Kong.”²² Mr. Lee, who has been involved in Hong Kong politics since those early years, said that it had been his hope that even in the period between the Joint Declaration in 1984 and the handover in 1997 “we could already set in

18 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

19 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 10 March 2015.

20 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

21 Ibid.

22 Ibid.

place a democratically elected legislature during that time, or at least have everything ready.” As the Basic Law subsequently stipulated that there would not be universal suffrage in the first 10 years, he thought it meant that Hong Kong “would only wait for 10 out of the 50 years” for universal suffrage. To date, however, it has already been postponed until 2017. As Mr. Lee said, “Even if it comes about, it’s already 20 years later.”²³

Audrey Eu, Chairman of Hong Kong’s Civic Party, expressed her frustrations to the Committee by stressing how long Hong Kong people have been “waiting for the implementation of universal suffrage, which has been promised in the basic law.” She said, “Each time, our hopes have been dashed. It’s been pushed back and pushed back, each time our hopes dashed again.” Looking ahead to the culmination of these issues in the 2017 election of the chief executive and the debate surrounding it, Ms. Eu’s feeling is that the situation in Hong Kong is “really like a pressure cooker being pushed to the limits.”²⁴

A contrary view on these issues was submitted to the Committee in writing by Ricky Chan, Director, Canada Hong Kong Alliance (Toronto), and Ben Leung, President, Canada Hong Kong Alliance. They noted that Canada’s own governance system “has taken over a century to evolve.” Based on that history and what they described as the experiences of “many recent failed democracies in other parts of the world,” they expressed their view that “a democracy movement needs to be gradual to be successful.”²⁵

B. Troubling Signals

Apart from the slow pace of democratic reform, some witnesses also raised concerns about recent developments that may have a bearing on – or be a sign of – the broader trajectory of Hong Kong’s high degree of autonomy, a core aspect of the ‘one country, two systems’ principle.

The perception of encroachment on that autonomy was evident in the testimony of Chi Fung Wong (Joshua Wong), the Convenor of Scholarism, a pro-democracy student group. Mr. Wong has been seized with Hong Kong’s democratic development from a young age. He spoke about the 2011 announcement by Hong Kong’s education department that all primary school and secondary school students would have to learn ‘national education’ in their curriculum. In his view, that ‘national education’ emphasizes the need for students “to establish their obedience as well as their praise towards the Chinese Communist government,” in accordance with specified standards and behaviours. Mr. Wong called it “a brainwashing tool.”²⁶

As part of Scholarism, an organization that Mr. Wong established when he was 14, a few hundred secondary school students protested against ‘national education’ in 2012, calling for respect for democratic values, and gaining public support and awareness.

23 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 10 March 2015.

24 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

25 Brief submitted by Canada Hong Kong Alliance to FAAE, May 2015.

26 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

Eventually, in the face of “the hunger strike of students and 120,000 people in occupation outside the government office, the government finally was forced to put aside the subject.” Mr. Wong also indicated that the anti-‘national education’ movement demonstrated to students that they have a role to play in Hong Kong’s democratic progress.²⁷

Another development relevant to Hong Kong’s high degree of autonomy was raised by Mr. Lee in his written submission to the Committee. He noted that, in June 2014, the Chinese central government issued a White Paper entitled, [*The Practice of the “One Country, Two Systems” Policy in the Hong Kong Special Administrative Region*](#). The White Paper’s foreword specifies that its purpose includes furthering a “comprehensive and correct understanding” of that policy. On the first aspect of that policy, it later states:

The ‘one country’ means that within [China], HKSAR is an inseparable part and a local administrative region directly under China’s Central People’s Government. As a unitary state, China’s central government has comprehensive jurisdiction over all local administrative regions, including the HKSAR. The high degree of autonomy of HKSAR is not an inherent power, but one that comes solely from the authorization by the central leadership. The high degree of autonomy of the HKSAR is not full autonomy, nor a decentralized power. It is the power to run local affairs as authorized by the central leadership.

Mr. Lee drew attention to the White Paper’s content relevant to Hong Kong’s administrators, including its judges, which the document states are responsible, among other things, for “safeguarding the country’s sovereignty, security and development interests....” Furthermore, the White Paper states that all administrators must love the country as a basic political requirement. Mr. Lee submitted his view that, “Beijing has thus sought to rewrite the Joint Declaration by (inter alia) taking back the high degree of autonomy already given to Hong Kong and seriously eroding the independence of the judiciary.”²⁸

While testimony did not address the status of civil liberties in detail, Ms. Eu raised the specific issue of press freedom in Hong Kong, citing two reports that have pointed to declining press freedom. In one published by Freedom House, Hong Kong is given the overall status of “partly free”. The report further notes that Hong Kong’s press freedom score has declined over the last five years of reporting. Its general findings were as follows:

Freedom of expression is protected by law, and Hong Kong media remained lively in their criticism of the territory’s government and to a lesser extent the Chinese central government in 2014. However, Beijing’s enormous economic power and influence over Hong Kong businesses, politicians, and media owners allow it to exert considerable indirect pressure on the territory’s media, leading to growing self-censorship in recent years.

During 2014, the environment for media freedom declined further as physical attacks against journalists increased, massive cyberattacks crippled widely read news sites at

27 Ibid.

28 Brief submitted by Martin Lee to FAAE, March 2015.

politically significant moments, and businesses withdrew advertising from outlets that were critical of Beijing and supportive of prodemocracy protesters....²⁹

The second report cited by Ms. Eu, the 2014 annual report of the Hong Kong Journalists Association, highlights similar issues. The report's introductory paragraph goes so far as to state that the "year under review has been the darkest for press freedom for several decades, with the media coming under relentless assault from several directions."³⁰ On the issue of self-censorship within the profession, Ms. Eu commented that, "A lot of the newspapers, in fact, have editors who have left their position."³¹

UNIVERSAL SUFFRAGE

A. The Proposed Electoral Framework for 2017

As outlined above, [Article 45](#) of the Basic Law provides that the ultimate aim for Hong Kong's chief executive is selection by universal suffrage. The Standing Committee of the NPC [decided](#) that the selection of the chief executive in 2017 could be implemented by that method and the same for the election of the Legislative Council thereafter. There is a multi-step process necessary to arrive at that point.

In October 2013, the Hong Kong SAR government announced the establishment of a Task Force on Constitutional Development, and in December 2013, published a public consultation [document](#) on issues related to the electoral method. It was called, *Let's talk and achieve universal suffrage*. The [report](#) on it and the accompanying [report](#) of Chief Executive CY Leung to the Standing Committee of the NPC were both released in July 2014.

In response, on 31 August 2014, the Standing Committee announced its [decision](#) on the framework for the election of Hong Kong's chief executive by universal suffrage in 2017 (the 31 August decision). It expressed the view that this step would represent "historic progress in Hong Kong's democratic development and a significant change in the political structure of the Hong Kong [SAR]." The decision continued by stating that, as "the long-term prosperity and stability of Hong Kong and the sovereignty, security and development interests of the country are at stake, there is a need to proceed in a prudent and steady manner." The decision also emphasized the need to uphold the principle that the chief executive "has to be a person who loves the country and loves Hong Kong."

According to the 31 August decision, the process would involve a "broadly representative nominating committee." Its size, composition and method of formation would follow the model of the existing Election Committee for the chief executive, as employed in 2012. It would nominate two or three candidates for the office, each of whom would need "the endorsement of more than half of all the members of the nominating

29 Freedom House, "[Hong Kong](#)," *Freedom of the Press 2015*.

30 The Hong Kong Journalists Association, [Press Freedom Under Siege: Grave Threats to Freedom of Expression in Hong Kong](#), July 2014, p. 2.

31 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

committee.” Once the candidates are determined, all eligible electors in Hong Kong would have the right to vote for the chief executive. Finally, the chief executive-elect would need to be appointed by China’s central government.

The 31 August decision raised significant concerns within Hong Kong’s pro-democracy movement, which includes a diverse range of actors, including young people, professors, professionals and the ‘pan-democrat’ legislators. From their perspective, the framework, and in particular the nomination process, would effectively ensure the selection of pro-Beijing loyalists. Ms. Eu told the Committee that the 31 August decision “was a straitjacket worse than anybody had ever suggested in Hong Kong.” In her view, “It wasn’t a product of Hong Kong discussion or Hong Kong talking. It was imposed upon us by Beijing.”³²

Between September and December 2014, the ‘Umbrella Movement’ saw pro-democracy demonstrators, many of whom are high school and university students, establish encampments and barricades in the heart of the city centre. Police periodically attempted to clear them, at times using tear gas and batons. Kwun Chung Law (Nathan Law), Secretary General, Hong Kong Federation of Students, told the Committee that, once they had seen the 31 August decision, he and his fellow students “had no choice but to organize a class boycott, hoping that this would lead to a dialogue with the Chief Executive in which our fears could be fully presented.” They were, however, “rejected.” Mr. Law attested that the students had no choice other than to pursue civil disobedience because it was “the only way to make the oppression visible to the world and to mobilize the people of Hong Kong to protect their human rights, including their democratic rights.”³³

In reflecting on the Umbrella Movement – and the ‘Occupy Central’ component of it – Yves Tiberghien, Director, Institute of Asian Research, and Associate Professor of Political Science, University of British Columbia, commented that it was “remarkable to have that many young people paying a big cost in their lives to devote themselves to the future of the political system in their city.” Moreover, the demonstrations remained largely peaceful. As Professor Tiberghien observed, “Nobody was killed despite the tensions and confrontations that appeared later in the movement.” Even though they had been pepper-sprayed and had faced police violence, “the students decided not to escalate and not to take over government buildings.” In Professor Tiberghien’s opinion, they showed “restraint” and “maturity.”³⁴

As the next step, in January 2015, the Hong Kong SAR government published a [document](#) for a second round of public consultations on the selection method for the chief executive. In so doing, it indicated that it was attempting to forge greater consensus on the issue. The government released a [report](#) on those consultations, which also contains its package of proposals, in April 2015.

32 Ibid.

33 Ibid.

34 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

The April 2015 proposals reflect the framework outlined in the 31 August decision of the Standing Committee of the NPC. They include a 1,200-member nominating committee, the membership of which would be based on the 4 sectors and 38 sub-sectors of the existing Election Committee.

There are two new details in this package. One is the proposed two-stage process for nominating candidates. The first stage (“members recommendation”) would involve a lower threshold of endorsements, with each candidate needing the support of between 120 and 240 committee members. This first stage is intended to allow “at least five and at most ten places for persons seeking nomination.” Each committee member could recommend one candidate. The second stage (“committee nomination”) would produce the final 2–3 candidates. The second new detail is that, at this stage, each committee member would be able to vote for all – and at least two – candidates. Those who could obtain the highest number of member endorsements – and the support of at least half of those members – would become the final candidates. In keeping with the 31 August decision, all eligible Hong Kong voters would then elect the chief executive using the first-past-the-post system.

These proposals must be approved by two-thirds of the Legislative Council, as well as the chief executive and the NPC. If the amendment that would implement the proposals is not approved, the existing method – from 2012 – will be used again in 2017. The SAR government’s [report](#) states that if the package fails, “it would then be even more difficult to know when the aim of selecting all the Members of the [Legislative Council] by universal suffrage could be achieved.” The report also asserts that Hong Kong’s constitutional development would “inevitably come to a standstill.”

B. Reactions

Witnesses raised a number of concerns about the decisions and framework outlined above. Speaking in March 2015, prior to the SAR government’s announced proposals, Mr. Lee put forward his view that the nomination process prescribed in the 31 August decision would, as he put it, result in Beijing calling “the shots.” He said, “Hong Kong people will only be able to choose from among two or three candidates, all of whom will be preselected by a Beijing-controlled nomination committee.” As such, Mr. Lee argued that, “Beijing will pick puppet A, puppet B, or if we are lucky, even puppet C for us to elect.” With regards to the 50% threshold for the endorsement of candidates, Mr. Lee asserted that “Beijing controls at least 950” of the committee’s 1,200 members, which he says effectively negates the ability of the pan-democrats to put forward a candidate who could get the necessary 600 votes.³⁵

Alan Ka-lun Lung, Chairman, Hong Kong Democratic Foundation, provided his summary of the views held by the pan-democrats on the election issue. He said, “They want genuine universal suffrage with no unreasonable restrictions on the nomination and election process, with a particular focus on no unreasonable screening on the nomination.” However, the announced package of proposals “falls short of this expectation.”

35 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 10 March 2015.

In Mr. Lung's view, "The government's proposal is a big step forward on the election process—one man, one vote—but a big step backward on the nomination process."³⁶

Indeed, both Mr. Lee and Ms. Eu focused on the composition of the proposed nominating committee, citing the language contained in [Article 45](#) of the Basic Law, which describes a "broadly representative" nominating committee. For her part, Ms. Eu argued that the 31 August decision was in fact a "step backwards" from the NPC Standing Committee's [decision](#) in 2007, which indicated that the nominating committee "could be determined or designed in accordance with, or with reference to," the Election Committee. However, the 31 August decision proclaimed that the nominating committee had to follow the Election Committee exactly, with the 4 sectors and 38 subsectors. Ms. Eu suggested that the "majority of them are Beijing-controlled." They also represent a small proportion of Hong Kong's overall population.³⁷

Other testimony suggested that the proposed electoral framework does not contravene the letter of the Basic Law. Professor Tiberghien argued that, "the NPC ruling is harsh and stretched the limits of the Basic Law, but it remained within the Basic Law. In fact, the ruling in August goes a long way in trying to justify how this still fits within article 45."³⁸ Professor Young's view is that China is "trying to work with the language of article 45 and the previous decisions of the standing committee." He said, "If you look at the language there, it's generally consistent."³⁹

Beyond the issue of consistency with the specific language contained in the Basic Law, there is the broader issue of whether the current proposals are perceived by Hong Kong people as satisfying both the definition and the spirit of universal suffrage. Mr. Lee argued that, taken together, the Basic Law, Joint Declaration and *International Covenant on Civil and Political Rights* require "a meaningful election." As he put it, "Hong Kong people must be given a real choice."⁴⁰ In his submission, Mr. Lee pointedly wrote that, "The right to vote without the corresponding right to stand as candidates is not universal suffrage."⁴¹ In her remarks, Ms. Eu stressed that "there are universal standards, even though there are no universal models, for election."⁴²

C. China's View of Hong Kong

The Committee's meetings suggested that recent events in Hong Kong must also be understood in the context of developments that are underway in China. The general view is that China is not the same country today as it was in 1984, when the Joint Declaration was agreed with Britain. Given the economic transformation that has occurred

36 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

37 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

38 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

39 Ibid.

40 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 10 March 2015.

41 Brief submitted by Martin Lee to FAAE, March 2015.

42 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

in China in the years since, and the country's growing international clout, this observation is no surprise.

Ms. Wright argued that the way in which China's central government views Hong Kong has changed in the time since Deng Xiaoping put forward the 'one country, two systems' principle and agreed to the 50-year timeframe for the preservation of Hong Kong's unique character. She said that Deng Xiaoping,

...did not want to inherit a truculent population. He did not want to see the city's resources and sophistication dissipated, so he accepted considerable risks. Most important, he was unafraid of Hong Kong's separateness. It was enough that he had reunited an errant territory to the motherland, and he did not seek to make Hong Kong like any other Chinese city, and that's what's different today. The China of today does not see Hong Kong as Deng saw it. Often it is said that Hong Kong cannot have further democratic development because, first, it might spin out of China's control, and, second, because it would be a vanguard and further the interest in the rest of China for democratic development.⁴³

Rather than viewing Hong Kong's "separateness" as valuable, as it did in the 1980s and 1990s, Ms. Wright suggested that the current government in China "does want Hong Kong to be more like any other Chinese city, and it is not enthralled with Hong Kong's special character." The desire now, as she put it, is the sublimation of Hong Kong. That is, in Ms. Wright's view, "a sign of insecurity."⁴⁴

In Mr. Lee's opinion, Deng Xiaoping's idea of 'one country, two systems' was not limited to Hong Kong; it was also meant "to apply to the rest of China." It is for that reason, in Mr. Lee's mind, that Deng Xiaoping "said Hong Kong must keep what we have under British rule for 50 years, without change, but at the same time having democracy to bolster, to protect these core values." According to Mr. Lee, Deng Xiaoping "obviously reckoned that China would take about 50 years to catch up with us, and that is why he said 50 years." Speaking about the current leadership in China, Mr. Lee commented, "what better signal for [President Xi Jinping] to give to the rest of the world that he means business and that he is a reformer, than when he actually allows the Hong Kong people to have democracy as it was already promised to us."⁴⁵

Charles Burton, Associate Professor, Department of Political Science, Brock University, was not optimistic in this regard. Speaking about his time in the Canadian embassy in Beijing in the 1990s, he suggested that there had been a positive reaction to the "50 years of no change formula, because we expected, from statements by Mr. Deng Xiaoping and his successor, that China would be making a political transformation to modern norms of democracy and rule of law before 50 years were up." There were signs, such as when China "started to have village elections," and when it signed the *International Covenant on Civil and Political Rights* in 1998. The embassy anticipated at the time that China would then move to ratify the convention. Professor Burton added,

43 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

44 Ibid.

45 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 10 March 2015.

however, that “17 years later we see no movement in that direction; in fact, it could be the other way around.” He highlighted that, in 2012, after coming to power, President Xi Jinping “made a number of statements that strongly and explicitly renounced key political ideals such as constitutionalism and freedom of the press, speech, and assembly.” Professor Burton therefore suggested that “recent backtracking” on Hong Kong can be seen “as connected to this new political orientation in China, which is explicitly anti the universal values of human rights and governance.”⁴⁶

Professor Tiberghien argued that there are layers of “internal politics within China around Hong Kong.” These dynamics include a “battle” that is underway between the “conservatives” and “reformists” in China’s government.⁴⁷ Mr. Lung suggested that, based on the experience of the 2012 election of Hong Kong’s chief executive, which was decided by an Election Committee that is the model for the proposed nomination committee, “conservative forces in Beijing ... felt that the chief executive candidates, once nominated, could not be controlled, not even in 2012, by Beijing.” In Mr. Lung’s view, this “thinking leads to a conclusion that allowing approved candidates to run in a ‘universal suffrage’ election, almost like the Iranian presidential election system, is the maximum risk that the central government seems to be willing to take for now.”⁴⁸

HONG KONG AT A CROSSROADS

Apart from exposing political frustrations, the reaction to the 31 August decision revealed a number of other challenges that are facing Hong Kong. While the September–December 2014 demonstrations were largely based on opposition to the proposed framework for the election of the chief executive, the Committee was told that the protests were also a reaction to broader economic, social, and political frustrations that have been building within Hong Kong.

A. Youth Frustrations

The Umbrella Movement brought to light the particular frustrations of Hong Kong’s youth population. The Committee heard that many young people are upset about economic issues, including income inequality, the high cost of living, and what they see as declining economic opportunity. In particular, Mr. Law voiced his feeling that upward mobility for young people in Hong Kong is “very low.”⁴⁹ Indeed, according to the International Monetary Fund, Hong Kong is one of the most income unequal advanced economies in the world.⁵⁰

Professor Tiberghien noted that the ‘Occupy Central’ element of the demonstrations was “inspired” by the ‘Occupy Wall Street’ protests that emerged in New York City in 2011.

46 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

47 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

48 Ibid.

49 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

50 Changyong Rhee, “[Asia: Achieving its Potential](#),” International Monetary Fund, *Finance & Development*, June 2014, Vol. 51, No. 2.

He informed the Committee that there “is a strong economic component behind” the Occupy Central protests, and observed that,

Talking to Hong Kong people and students, I could see that the issues are of rising inequality, including a lower sense of opportunity for the younger generation; a sense of an economy that is now more captured by the older generation, and the fact it's tougher for the younger generation to fit in; and prices going crazy and being inaccessible to younger people.⁵¹

In addition to these economic frustrations, many young people are, as discussed previously, unsatisfied with the political process in Hong Kong. Professor Tiberghien told the Committee that there is dissatisfaction with “the old model of governing Hong Kong through the economic elite, tycoons, and selected professionals, which was inherited from the British...” In his view, that model is not accepted “anymore by the young people and, in general, by the majority of the Hong Kong people. They want more open governance with more access to larger sets of players.”⁵²

Hong Kong's youth population has garnered international attention for the degree to which it is engaged in civic affairs and local political debates. Mr. Lee told the Committee that the students and young people who participated in the Umbrella Movement have “been baptized into democracy.”⁵³ Testimony also indicated that youth involvement in, and in many ways leadership of, the protests illustrates the extent to which young people feel marginalized and alienated from broader society. Mr. Law commented that “young people in Hong Kong face the future with increased feelings of hopelessness.” He added that, “We, the younger generation, feel that we don't matter in the society.”⁵⁴ Mr. Wong outlined the stakes for youth in commenting that, “Although young people understand that participation in social movements may affect their future careers, when they also discover they can't see any future in the current system, changing the current system is the only way out.”⁵⁵

B. Political Polarization

The Committee heard that the debate about the electoral framework has been very divisive for Hong Kong. A poll conducted on 28 April 2015, cited by Mr. Lung, reported that the package of proposals had the support of 47% of Hong Kong people, with 38% against, and 16% with no opinion.⁵⁶ Ms. Eu stated that “something less than half of the people

51 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

52 Ibid.

53 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 10 March 2015.

54 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

55 Ibid.

56 Speaking notes submitted by Alan Ka-lun Lung to FAAE, May 2015. For more information on the poll, see: Peter So and Stuart Lau, “[Support for Hong Kong political reform plan at 47pc, says poll](#),” *South China Morning Post*, 29 April 2015.

polled” are willing to “pocket”⁵⁷ the package, while there is “something close to 40%, who say, ‘Over my dead body.’”⁵⁸ Professor Tiberghien described this political context as follows: “Essentially we have a city now divided into two halves, as we saw at the end of the Occupy movement.”⁵⁹

There is stronger opposition to the package of proposals on the part of young people. In the same poll as cited above, some 65% of the 18–29 year old age group was opposed to the package. Mr. Lung also told the Committee that, “55% of those with a university education are opposed, whereas 55% of those with only a high school education or less ... support it.” As he summarized the landscape, “it’s the younger and more educated people who don’t like it.”⁶⁰

Regarding the views of Hong Kong’s business community, Professor Tiberghien told the Committee that a particular divide exists between “the tycoons and economic elites of Hong Kong and the young generation and students and democrats.”⁶¹ Another witness, Ms. Eu, painted a more complex picture of the business community’s position. She said, “Probably you have more business tycoons siding with China because that’s where the business interests lie.” On the other hand, Ms. Eu commented that some business people are keen to see Hong Kong “carry on the way it was, because for businesses you need a constant environment.”⁶² An attractive business environment includes what Hong Kong has offered: transparency, the rule of law and a level playing field.

The Committee also heard that Hong Kong does not have a history of internal tensions. Mr. Lee said that for many years after the British handover, the “Hong Kong community was a very harmonious one,” and noted that people of different political parties “were very polite even if they didn’t agree with you politically.” However, he feels that the debate over the electoral framework “has resulted in the community being totally polarized.”⁶³ Ms. Eu suggested that the mood in the Legislative Council and the relationship between it and the Hong Kong SAR government has also deteriorated in recent years. As she described it, “In the old days at least there was a measure of politeness and courtesy. Now it’s actually quite difficult, and the relationship between the legislature and the government is also very poor.”⁶⁴ In a general sense, Ms. Wright commented that, “with the chief executive selected by indirect means and vetted by China, there remains the sense

57 The “pocket” reference refers to the position advocated by some that Hong Kong should accept – “pocket” – the current proposal on electoral reform and work toward a better deal in the future. Simon Denyer, “[Hong Kong unveils election overhauls, but democracy advocates scorn them](#),” *Washington Post*, 22 April 2015.

58 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

59 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015. More recent polls would support this observation.

60 Ibid.

61 Ibid.

62 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

63 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 10 March 2015.

64 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

in Hong Kong that there is no one protecting the city's autonomy, no advocate for the city's interest, and no opportunity to influence their own destiny.”⁶⁵

C. Democratic Reform at an Impasse

Testimony suggested that Hong Kong may be at an impasse with respect to democratic reforms. Indications are that the pan-democrats, who hold more than one-third of the seats – 27 of 70 – in the Legislative Council, will vote against the current electoral reform proposal. In his appearance before the Committee at the beginning of March 2015, Mr. Lee indicated that the pan-democrats “have vowed that they would vote against any bill proposed by the government that is within the confines of the decision in Beijing on August 31.”⁶⁶ Mr. Lung provided a similar assessment when he testified in May 2015, informing the Committee that, “There's really no good news to report. The proposed 2017 election reform is widely expected to fail.”⁶⁷

The Hong Kong SAR government has indicated that it wants to secure the Legislative Council's approval of the necessary amendment to the Basic Law before the end of the current session. As noted previously, if the amendment is not passed, the current method of selecting the chief executive will continue to apply. In that scenario, Mr. Lung told the Committee that it is unclear “how long we will have to wait before further reform for universal suffrage can be restarted under the basic law.”⁶⁸

The Committee heard that there has been a lack of serious discussion regarding potential compromises. Commenting as of early May 2015, Professor Young relayed that there has been little negotiation regarding how the package of proposals could be improved. He observed that,

Both sides are not even talking, not even trying to explore ways in which you can have a more democratic system within the August 31 framework. I'm one of the scholars who have tried many times to propose different ways of maybe having a better balanced system that, on this first attempt, would certainly be an improvement to our existing system and would allow us to move forward. But unfortunately it doesn't look like the two sides have sufficient trust to achieve any kind of progress.⁶⁹

Notwithstanding this apparent standstill, Professor Young believes that there is a lot “of room for discussion,” and urged the different sides to work together to “focus on things that are doable.” Specifically, he is encouraging the pan-democrats to put forward a counter-proposal that would increase the number of candidates eligible to stand for election from two or three to five.⁷⁰

65 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

66 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 10 March 2015.

67 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

68 Ibid.

69 Ibid.

70 Ibid.

Professor Tiberghien also sees room for compromise within the boundaries of the 31 August decision. He conceded that the NPC will not change that decision, at least not for a few years. However, his view is that “there is still room for a lot of leniency within it, such as the selection of the 1,200 members, or the instructions given to the 1,200 members of the selection committee, to allow maybe three people to go through for the election.” Professor Tiberghien suggested that, if “there were that understanding very quickly, then maybe the democrats [would] not veto the package in the Legislative Council.”⁷¹ He encouraged the parties to engage in dialogue and to explore possibilities for compromise to make the proposal more acceptable.

Testimony indicated that finding a way out of the current impasse is critical for Hong Kong’s future. The alternative – an inability to reach an agreement on electoral reform – would have negative consequences for all sides, including for China. Mr. Lung articulated some of these possible consequences in arguing that,

This disagreement is not good for Hong Kong. The consequences are that the political uncertainty that has been troubling Hong Kong for more than 30 years will remain unresolved, Occupy Central or street protest in one form or another will continue, and business confidence in Hong Kong will drop. This is not a good outcome for Hong Kong, for China, or for international interests, particularly business interests, in Hong Kong, and the worst case scenario could even be a script for the beginning of the end of Hong Kong.⁷²

There is, then, a general sense that Hong Kong has reached a crossroads. In effect, the opposition to the proposed electoral framework has become a rallying point not only for debates about Hong Kong’s governance, but also its broader societal challenges and relationship with mainland China and the central government.

CANADA’S ROLE

Canada has a long-standing connection to Hong Kong. The Committee heard that historical ties, strong people-to-people relations and commercial links all provide an opportunity – and a responsibility – for Canada to play a role in responding to the situation in Hong Kong.

A. Canada’s Ties to Hong Kong

Canada’s historical ties to Hong Kong are rooted in the role that Canadian soldiers played in that territory during the Second World War. Around 2,000 Canadians were sent to Hong Kong in 1941 to support the British garrison against the Japanese. Some 290 Canadian soldiers were killed in the fighting and another 493 wounded.⁷³

Since that time, Canada has continued to have strong personal ties with Hong Kong. Gloria Fung, Director, Canada-Hong Kong Link, described Hong Kong as “Asia’s

71 Ibid.

72 Ibid.

73 Department of Foreign Affairs, Trade and Development (DFATD), [“Battle of Hong Kong,”](#) *Canadians in Hong Kong*.

most Canadian city.”⁷⁴ Indeed, Professor Burton noted that Hong Kong boasts one of the largest Canadian communities abroad: an estimated 295,000 people. Moreover, there are around 500,000 people of Hong Kong descent in Canada.⁷⁵ In a brief provided to the Committee, the Canada Hong Kong Alliance noted that the Hong Kong community in Canada has “made tremendous contributions to the cultural and economic enrichment of the [Greater Toronto Area] and Canada at large.”⁷⁶

Hong Kong is also an important business partner for Canada. Ms. Fung noted that there are more than 200 Canadian companies based in Hong Kong.⁷⁷ In a reference document provided to the Committee, Professor Tiberghien observed that Vancouver and Toronto “are deeply connected with Hong Kong business and people-to-people networks.”⁷⁸ In her written notes, Ms. Eu quoted the Canadian Chamber of Commerce, which described Hong Kong as “Canada’s gateway to China.”⁷⁹ In 2014, Hong Kong was Canada’s sixth largest export destination for goods.⁸⁰

In addition to its economic and people-to-people ties with Hong Kong, the Committee heard that Canada was involved at a diplomatic level during the period leading up to and following the transfer of sovereignty over Hong Kong from Britain to China. Mr. Lee and other witnesses told the Committee that Canada endorsed the 1984 Sino-British Joint Declaration.⁸¹

Professor Burton – who served as a diplomat in the Canadian embassy to China in the early 1990s – indicated that Canada was also involved in discussions with Chinese and British officials around the time of the 1997 handover. According to Professor Burton, Canada was concerned with how the handover would affect emigration from Hong Kong to Canada, as well as Canada’s business interests in Hong Kong. He commented that,

It was very important to Canada that the transition to Chinese sovereignty be done in such a way as to protect our significant economic interests there. That’s why we sought and we received assurances from both the Government of the People’s Republic of China and the Government of the United Kingdom over the promises of “one country, two systems”, “no change for 50 years”, and that “Hong Kong people would govern Hong Kong”.⁸²

With respect to Canada’s broader relationship with China around that time, Professor Burton said that when China signed the *International Covenant on Civil and Political Rights* in 1998, Canada was “very keen to assist China in bringing its laws and practices into

74 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 10 March 2015.

75 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

76 Brief submitted by Canada Hong Kong Alliance to FAAE, May 2015.

77 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 10 March 2015.

78 Reference document submitted by Professor Yves Tiberghien to FAAE, May 2015.

79 Speaking notes submitted by Audrey Eu to FAAE, May 2015.

80 The Canadian Trade Commissioner Service, [Trade Commissioner Service – Hong Kong, SAR](#).

81 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 10 March 2015.

82 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

compliance with the covenant” so that it could ratify the treaty and be subject to its reporting requirements and international supervision processes. That offer, according to Professor Burton, was not taken up by China.⁸³

B. Canadian Support for Hong Kong

A number of perspectives were put forward by witnesses regarding how Canada can and should respond to the situation in Hong Kong. Some are of the view that, while there is a need for Canada to speak up about the recent developments – in keeping with principles of democratic freedoms and human rights – this support must be delivered in a constructive way that does not make things more difficult for those in Hong Kong who are pushing for change. For example, Mr. Lung cautioned Canada to use careful engagement. In his written notes, he said that, “any open criticism of the Chinese Government will be regarded as ‘bad foreign influence’ meddling in the internal affairs of China. Such ‘meddling’ could trigger even tighter restrictions on the [chief executive] candidates nomination process.”⁸⁴ In Mr. Lung’s view, “the only answer is for Hong Kong to come to an agreement with Beijing on its own about building a wide community consensus on a proposal that allows as close to universal suffrage as possible” under the 31 August decision.⁸⁵

From Ms. Fung’s perspective, as one of the countries that endorsed the Joint Declaration, Canada has a “moral duty to urge China to respect and honour what they have promised to the Hong Kong people in respect of ‘one country, two systems’; that is, Hong Kong people ruling Hong Kong with a high degree of autonomy.”⁸⁶ Ms. Fung stressed that there are national interests that should inform Canada’s approach to Hong Kong and its support for the ‘one country, two systems’ principle. In her opinion, those interests are served by defending “the rights of our Canadian citizens living in Hong Kong.” Ms. Fung added that, without the rule of law, “freedom, and civil liberties, there won’t be any guarantee of a level playing field for Canadian-owned businesses or personal security for Canadians in Hong Kong.”⁸⁷

While China is a very important global economy and is wary of any notion of foreign interference with respect to Hong Kong, Mr. Lee emphasized that Canada’s relationship with China does not preclude it from addressing the situation in Hong Kong. His assessment is that “there is no inconsistency between a good policy for China and Hong Kong, and your foreign policy of democracy, freedom, and human rights. They are perfectly consistent.”⁸⁸ Mr. Lee agreed with Ms. Fung that Canada has a “moral obligation” to speak out about Hong Kong. He told the Committee that, “The Canadian government, having been lobbied successfully by China to support the joint declaration, certainly owes

83 Ibid.

84 Speaking notes submitted by Alan Ka-lun Lung to FAAE, May 2015.

85 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

86 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 10 March 2015.

87 Ibid.

88 Ibid.

a moral obligation to the Hong Kong people when things are going wrong. You cannot be accused of interfering in China's internal affairs, because China had lobbied for international support."⁸⁹

Ms. Wright observed that the issue of "foreign intervention" is often invoked by China as a method of dissuasion, and "is a tricky issue." It is for that reason that she reiterated the importance of the Joint Declaration. She argued that it is "a way for foreign powers to organize themselves around support for Hong Kong." Moreover, as was observed above, Ms. Wright reminded the Committee that "Canada, the United States, and Japan were asked to openly support the joint declaration. They were asked to celebrate it."⁹⁰

Canada could help to promote dialogue. Professor Tiberghien argued "that one of Canada's great qualities is its ability to have a multicultural dialogue and debate."⁹¹ Regarding whether Canada could play a role in mediation, Mr. Lung was in favour of the idea, which he indicated would be helpful, but argued that it should be done "very quietly."⁹²

Some witnesses encouraged Canada to cooperate with other countries on issues relevant to Hong Kong. Professor Burton's suggestion was that the Government of Canada should work with "like-minded nations" to monitor China's compliance with the Joint Declaration and the Basic Law.⁹³ Making a similar suggestion, Mr. Law indicated that the countries in question should be those that endorsed the Joint Declaration.⁹⁴

CONCLUSION

The historical, political, legal and social issues brought to the Committee's attention in relation to Hong Kong are complex, and will likely be the subject of debate in Hong Kong for years to come. The Committee's role is not to offer sweeping evaluations of these issues or to pronounce on the specific details of electoral models. Decisions in that regard must be made by the governments of China and the Hong Kong SAR and the people of Hong Kong, in accordance with the Basic Law.

That said, the Committee agrees with the argument that Canada has both an interest and a role in ensuring that the spirit of democracy is respected in Hong Kong, a city with which Canada shares important history, economic ties and personal connections.

As one witness put it, the sun does not set on the terms of the Joint Declaration until 2047, and the intention of those who agreed to it was for its key ideas to continue

89 Ibid.

90 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 7 May 2015.

91 Ibid.

92 Ibid.

93 FAAE, [Evidence](#), 2nd Session, 41st Parliament, 5 May 2015.

94 Ibid.

thereafter. As one of the countries that endorsed the Joint Declaration – and the underlying principle of ‘one country, two systems’ – Canada’s commitment to Hong Kong, and to its unique character and high degree of autonomy, must also endure.

While the situation in one city may seem to some as a drop in the grand ocean of international concerns, the Committee believes firmly that principles and commitments matter. Without vigilance in their defence, they erode. As such, the Committee emphasizes that there should be no gap between the rhetoric and the substance of universal suffrage.

It is also clear that the current polarization in Hong Kong is a negative outcome for all concerned. The Committee therefore hopes that dialogue will be pursued between those on different sides of the current political debate in Hong Kong, and mutually beneficial proposals explored.

Recommendation 1

The Committee recommends that the Government of Canada state its support for the democratic aspirations of Hong Kong people, including the need for genuine universal suffrage in the election of their political leaders.

Recommendation 2

The Committee recommends that the Government of Canada reiterate its support for the ‘one country, two systems’ principle, and for the 1984 *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*.

Recommendation 3

The Committee recommends that the Government of Canada encourage dialogue that can lead to governance reforms in Hong Kong that are broadly accepted by all concerned.

APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<p>As an individual Martin C.M. Lee, Senior Counsel</p>	2015/03/10	49
<p>Canada-Hong Kong Link Gloria Fung, Director</p>		
<p>As individuals Charles Burton, Associate Professor Department of Political Science, Brock University Audrey Eu, Chairman Civic Party</p>	2015/05/05	58
<p>Hong Kong Federation of Students Kwun Chung Law, Secretary General</p>		
<p>Scholarism Chi Fung Wong, Convenor</p>		
<p>As individuals Yves Tiberghien, Director Institute of Asian Research and Associate Professor of Political Science, University of British Columbia Dalena Wright, Senior Fellow Ash Center for Democratic Governance and Innovation, Harvard Kennedy School Simon Young, Professor and Associate Dean Faculty of Law, University of Hong Kong</p>	2015/05/07	59
<p>Hong Kong Democratic Foundation Alan Ka-lun Lung, Chairman</p>		

APPENDIX B LIST OF BRIEFS

Organizations and Individuals

Canada Hong Kong Alliance

Canada-Hong Kong Link

Lee, Martin C.M.

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 49, 58-59, 61, 66](#)) is tabled.

Respectfully submitted,

Dean Allison

Chair

