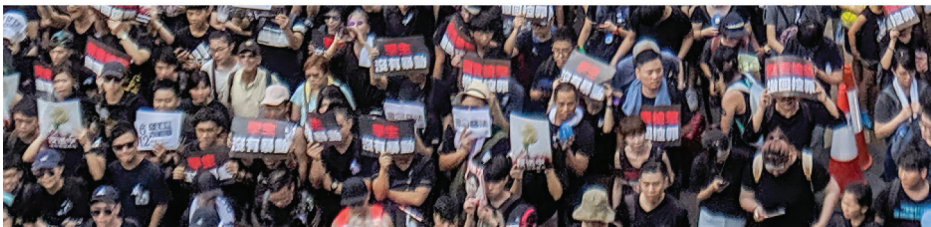


# The Promise of Democratization in Hong Kong



DISCONTENT AND  
RULE OF LAW CHALLENGES



## The National Democratic Institute

---

The National Democratic Institute (NDI) is a nonprofit organization working to strengthen and expand democracy worldwide. Since 1997, NDI has periodically published assessment reports evaluating the status of democracy in Hong Kong. These “Promise of Democratization in Hong Kong” reports have reviewed the Hong Kong Special Administrative Region’s (Hong Kong) electoral framework, autonomy, the rule of law, and civil liberties under the One Country, Two Systems framework. This report is the 17th in that series.



## Georgetown Center for Asian Law

---

### GEORGETOWN LAW

Center for Asian Law (GCAL) serves as the key platform for teaching and research on Asian law at Georgetown University Law Center. The Center for Asian Law is one of the top centers for the study of Asian law in the United States. Faculty, staff, and affiliated fellows publish regularly on cutting-edge topics related to Asian law and policy. The Center for Asian Law pursues on-the-ground legal reform work, in collaboration with Asian partners and with other Georgetown Law centers and institutes.

### *Methodology*

---

In December 2019, a joint NDI and GCAL research team traveled to Hong Kong to conduct an assessment on rule of law challenges facing the city. This report is based on nearly 50 interviews with stakeholders in Hong Kong, including politicians from across the political spectrum, activists, academics, lawyers and barristers, and business leaders. Additionally, the assessment team conducted an extensive review of the documentary record and reports from the ground.

*This report was authored by:*

---

### MICHAEL C. DAVIS

Senior Research Scholar at the Weatherhead East Asia Institute at Columbia University, a Global Fellow at the Woodrow Wilson International Center for Scholars in Washington, DC, and a Professor of Law and International Affairs at India’s O.P. Jindal Global University. Davis was previously a professor in the Law Faculty at the University of Hong Kong, where he remains a non-resident senior fellow in the Centre for Comparative and Public Law.

---

### THOMAS E. KELLOGG

Executive Director of the Center for Asian Law, where he oversees various programs related to law and governance in Asia. He is a leading scholar of legal reform in China, Chinese constitutionalism, and civil society movements in China. He is also Adjunct Professor of Law at Georgetown University Law Center.

*With input, review, and edits by Manpreet Singh Anand, Adam Nelson, Maeve Whelan-Wuest, DoYun Kim and Julian Dorsey at NDI.*

*The Assessment team for this report included Michael C. Davis, Thomas Kellogg, Adam Nelson, and DoYun Kim. The team thanks all interviewees in Hong Kong for their views.*

---

## Table of Contents

<b>Executive Summary</b>	2
<b>Timeline: Major Political Events in Hong Kong 2019-2020</b>	4
<b>Introduction</b>	6
<b>The Basic Law - Guaranteeing Hong Kong's Autonomy?</b>	8
<b>Beijing's Interventions and the Road to the Extradition Crisis</b>	11
The Democratic Reform Push and the Umbrella Movement: A Missed Opportunity?	11
Creeping Interference, Mounting Influence: Beijing's Influence Efforts in Hong Kong, 2015-2019	12
<b>The 2019 Protests and Growing Threats to Autonomy and the Rule of Law</b>	15
The Extradition Bill	15
The Protest Movement Begins	16
A Dramatic Escalation: The June Protests	17
The Movement Continues: July-November 2019	20
District Council Elections	22
Excessive Use of Force by the Police	23
Criminal Justice System	25
Beijing's Strategy: No Negotiation, No Compromise	26
The Protest Movement – Unity Amid Diversity	28
<b>Recommendations</b>	30
<b>Conclusion</b>	32

---



## Executive Summary

In June 2019, a massive and sustained pro-democracy protest movement emerged in Hong Kong, capturing global attention and testing the city's political foundations. The Hong Kong government and Beijing leadership have largely refused to engage in dialogue with the protest movement, apparently seeing negotiation and compromise as a sign of weakness. Instead, the Hong Kong government has relied on the police to quell the protests, a strategy that has led to further public anger and deeper unrest.

The immediate cause of the crisis was the Hong Kong government's efforts to push forward an extradition bill that would have, for the first time, allowed individuals to be extradited from Hong Kong to mainland China. The government largely ignored criticisms of the proposed legislation until after massive protests erupted in June 2019, at which point the movement had morphed into a wide-spread and constant movement focused on issues aside from the extradition bill.

Months of large-scale protests and other acts of civil disobedience ensued, with a minority even partaking in violence, all of which were met with an increasingly aggressive response from the Hong Kong police, and increasingly pugnacious rhetoric from Beijing.

Beijing's approach has included a campaign to falsely blame the unrest on malevolent "foreign forces."<sup>1</sup> During the assessment mission for this report, the Ministry of Foreign Affairs in Beijing perpetuated this false narrative at a press conference, sanctioning NDI and three other organizations.<sup>2</sup> Such accusations not only seek to spread disinformation but also fail to recognize the organic nature of the protest movement in Hong Kong, which stems from genuine grievances.<sup>3</sup>

For its part, the Hong Kong government proved either unwilling or unable to negotiate with the protest movement, even as it became clear that its failure to do so was itself feeding public resentment and mistrust. The protest movement has exposed an array of governance challenges for Hong Kong - some new, some familiar. Resentment over Beijing's increasing influence in Hong Kong has been growing for years, but the protest movement and Beijing's response to it have brought Beijing's political standing in Hong Kong, including among some of its traditional supporters, to a new low. Trust and support in Hong Kong's political institutions have also declined as polling shows decreasing confidence in Chief Executive Carrie Lam's administration and the Legislative Council (LegCo).<sup>4</sup>

The Hong Kong police force, at times using excessive force to quell the protests, has done deep and lasting damage to its reputation.<sup>5</sup> Once viewed as one of the finest forces in Asia, the Hong Kong police have been credibly accused of excessive use of force against protesters and have opposed efforts to create an independent commission that could investigate reports of abuse.

---

<sup>1</sup> Myers, Steven Lee. "In Hong Kong Protests, China Angrily Connects Dots Back to U.S.," *The New York Times*, September 5, 2019, <https://www.nytimes.com/2019/09/05/world/asia/china-hong-kong-protests.html>.

<sup>2</sup> "Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference on December 2, 2019," Ministry of Foreign Affairs of the People's Republic of China, December 2, 2019, [https://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/2511\\_665403/t1720852.shtml](https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2511_665403/t1720852.shtml)

<sup>3</sup> Mitchell, Derek. "Reinvigorating Democracy in Asia and Beyond," National Democratic Institute, November 27, 2019, <https://www.ndi.org/publications/ndi-president-derek-mitchell-speaks-hong-kong-reinvigorating-democracy-asia-and-beyond>.

<sup>4</sup> "市民對香港特區政府的信任程度/People's Trust in the HKSAR Government," Hong Kong Public Opinion Research Institute (PORI)/香港民意研究, <https://www.pori.hk/pop-poll/hksarg/k001>

<sup>5</sup> "專業團體強烈譴責警方7.21於上環一帶以過度武力清場之聯合聲明 (Joint Statement by the Professional Organisations to Strongly Condemn the Excessive Use of Force by the Police to Disperse Protesters on 7.21 in the Area of Sheung Wan)." Progressive Lawyers Group (法政匯思) (blog), July 25, 2019. <https://hkplg.org/2019/07/25/專業團體強烈譴責警方7-21於上環一帶以過度武力清>; "Statement of the Hong Kong Bar Association (HKBA) on the Use of Force by the Hong Kong Police on 12 June 2019," Hong Kong Bar Association, June 13, 2019,



The social fabric of Hong Kong has also been deeply strained by the unrest. Over the past several months, several altercations between pro-democratic and pro-Beijing groups have broken out on the streets of Hong Kong. In some cases, tensions have emerged within families, as older and younger generations end up on opposite sides of the growing political chasm. Many have suffered in more tangible ways, including an uncountable number of physical injuries amid credible claims of police abuse. Additionally, thousands of protesters face criminal charges, which could further disrupt their lives and limit future professional and educational opportunities.

More than a year after the original bill was introduced, it appears the protest movement and the Hong Kong government have reached a stalemate. Despite the significant political, economic and social costs, the movement has retained both internal momentum and cohesion and political support from a majority of Hong Kong people, as demonstrated by the historic victory won by pro-democratic candidates in the District Council elections in November 2019.

In this context, there is an urgent need for a negotiated resolution to the crisis. Despite questions about who may speak authoritatively on behalf of the movement, key stakeholders in the pro-democracy camp believe that the protest movement would respond positively to a serious offer from the government to negotiate if that offer is accompanied by significant steps to address the movement's concerns.

The international community also has a vital role to play, both in supporting the protest movement's legitimate democratic aspirations, and in pressing the Hong Kong government and Beijing to negotiate and avoid further steps that would only deepen the crisis. Members of the pan-democratic camp cite the importance of international engagement and support, claiming that, but for international pressure, the Hong Kong government would have likely moved forward with its extradition bill and dealt with protests even more harshly.

To bring an end to the political stalemate and social unrest, the assessment provides a range of recommendations to key stakeholders, summarized here:

- *Leadership in Beijing and Hong Kong* need to acknowledge the legitimate concerns of the Hong Kong people about the erosion of their rights and the lack of progress on political reform.
- *Beijing* should publicly reaffirm its commitment to the One Country, Two Systems governing framework and refrain from any further moves that undermine Hong Kong's "high degree of autonomy" outlined in the Basic Law.
- *The Hong Kong government* should offer to negotiate with representatives from the protest movement and build a framework to increase citizen input.
- *The Hong Kong government* should establish an independent statutory commission to investigate widespread allegations of excessive use of force by police.
- *The Hong Kong government* should reaffirm its role as the representative body of the Hong Kong people. It should resist Beijing's interference into Hong Kong's autonomy and rule of law and restart the process of democratic reform.
- In order to leverage broad public support in Hong Kong and the international community, *the protest movement* should commit itself to non-violence.
- *The people of Hong Kong* should continue to tell the story of Hong Kong's democracy challenges to governments, parliaments, civil society and the private sector around the world.
- *The international community*, and in particular the United States and United Kingdom, should continue to publicly and privately raise concerns about the rule of law in Hong Kong to government officials in Beijing and Hong Kong.
- Further, *the international community* should continue to create opportunities for international non-governmental organizations to build working relationships with Hong Kong counterparts and support nascent civil society efforts in Hong Kong focused on rule of law and democratic development.

## T I M E L I N E

### Major Political Events in Hong Kong 2019-2020

Protests force the Hong Kong government to introduce concessions to the proposed extradition bill limiting the scope of extraditable offenses, introducing human rights safeguards and ensuring the protection of fugitives being transferred from the city to other jurisdictions, including mainland China.	Feb 15, 2019	Hong Kong's Security Bureau proposes amendments to extradition laws that would allow extraditions to countries, including mainland China, beyond the 20 states with which Hong Kong already has treaties.
	May 30, 2019	
The Hong Kong police fire tear gas and rubber bullets at protesters who surround the city's government headquarters in an effort to postpone the debate over the extradition bill.	Jun 9, 2019	An estimated one million people march in the largest protest in Hong Kong to date. The mass demonstration was largely peaceful.
	Jun 12, 2019	
Hundreds of thousands attend Hong Kong's annual July 1 democracy march as a standoff unfolds outside the city's legislature following early morning clashes between protesters and police.	Jun 15, 2019	Carrie Lam, Hong Kong's Chief Executive, indefinitely postpones the reading of the proposed bill to change the extradition law.
	Jul 1, 2019	
	Jul 1, 2019	Protesters storm the Legislative Council on the 22nd anniversary of the handover from British to Chinese rule, destroying pictures and daubing walls with graffiti.
Carrie Lam declares the extradition bill "dead" but stops short of full withdrawal.	Jul 9, 2019	
	Jul 21, 2019	Men in white T-shirts, some armed with poles and clubs, storm a train platform at Yuen Long MTR station, attacking passengers and passers-by, after a demonstration early in the day.
Protests take place across the city with demonstrators calling for a mass strike the next day. Carrie Lam invites student leaders to a meeting.	Aug 4, 2019	
	Aug 9, 2019	Hong Kong protesters begin a three-day sit-in at Hong Kong International Airport to reiterate their five demands and call international attention to their movement.
Carrie Lam pledges to withdraw the proposal to amend the extradition bill, addressing one of the five demands made by protesters.	Sept 4, 2019	
	Oct 1, 2019	Hong Kong marks China's national day with widespread unrest. Police shoot an 18-year-old protester with live ammunition during a clash with police.
Lam invokes colonial-era emergency powers to ban face masks, sparking violent protests. A police officer shoots a 14-year-old boy in the thigh.	Oct 4, 2019	
	Oct 16, 2019	The U.S. House of Representatives passes the Hong Kong Human Rights and Democracy Act of 2019.

**T I M E L I N E : Major Political Events in Hong Kong 2019-2020** *(continued)*

	Oct 21, 2019	Hundreds of thousands of pro-democracy protesters return to the streets of Hong Kong, defying a ban on assembly before being violently dispersed by police tear gas and a water cannon.
The extradition bill is formally withdrawn.	Oct 23, 2019	
	Oct 29, 2019	Authorities disqualify pro-democracy activist Joshua Wong from standing in upcoming District Council elections.
Xi Jinping demands end to violent protests in surprise meeting with Hong Kong leader Carrie Lam.	Nov 5, 2019	Thousands of student protesters blockade themselves in several university campuses across Hong Kong in preparation for clashes with police. The siege between protesters and the police continues for two weeks.
	Nov 13-29, 2019	
Hong Kong's High Court strikes down the contentious ban on wearing face masks in public.	Nov 18, 2019	
	Nov 20, 2019	The U.S. Senate passes Hong Kong Human Rights and Democracy Act of 2019.
A Hong Kong court temporarily reinstates the ban on wearing face masks.	Nov 22, 2019	District Council elections are held. The Beijing-backed establishment camp suffers a staggering defeat, as democracy advocates sweep 87 percent of the seats in the de facto protest referendum. Voter turnout hits an all-time high at 71 percent.
President Trump signs the Hong Kong Human Rights and Democracy Act of 2019 into law.	Nov 25, 2019	
	Nov 27, 2019	Marking the six-month anniversary of the protests that launched the pro-democracy movement, over 800,000 protesters fill city streets to pressure the government to meet demands for greater civil liberties.
	Dec 8, 2019	
The Hong Kong Court of Appeal rules the face mask ban will remain unconstitutional.	Dec 10, 2019	
	Jan 1, 2020	Over one million people attend a New Year's day pro-democracy demonstration.
China replaces its head of the Central Liaison Office in Hong Kong with Luo Huining.	Jan 4, 2020	
	Jan 25, 2020	Hong Kong declares a virus emergency, cancels Lunar New Year celebrations and restricts travel to mainland China following the outbreak of COVID-19.
Hong Kong police arrest veteran pro-democracy figures Jimmy Lai, Lee Cheuk-yan and Yeung Sum on charges of illegal assembly from a protest in August 2019.	Feb 27, 2020	Following the arrests of the pro-democracy veterans, people return to the streets marking the largest anti-government protests since the start of the COVID-19 epidemic. Police arrest 115 protesters.
	Feb 29, 2020	



## I. Introduction

The world has watched as months of unrest have rocked Hong Kong, putting the city's status as a key regional and global financial hub at risk. In mid-June 2019, a massive and sustained pro-democracy protest movement emerged, testing the political foundations of Hong Kong. In response, both the Hong Kong government and the central government in Beijing have largely refused to engage in dialogue with the protest movement, apparently viewing negotiation and compromise as a sign of weakness. Instead, the Hong Kong government has relied on the Hong Kong police to quell protests, a strategy which has led to growing public anger and deeper unrest continuing to the release of this report.

The immediate cause of the crisis was the Hong Kong government's efforts to push forward an extradition bill that would have, for the first time, allowed individuals to be extradited from Hong Kong to mainland China.<sup>6</sup> In February 2019, the government put forward its proposed legislative amendments, which, many observers noted, were lacking in basic human rights safeguards.<sup>7</sup> In the months that followed, the government largely ignored criticisms of its proposals and only agreed to suspend its proposed amendments after massive protests in June 2019, the largest in Hong Kong history, made clear that further efforts to advance the reforms were no longer possible.<sup>8</sup>

By the time the government agreed to suspend, though not withdraw, the extradition bill on June 15, the anti-extradition protest had morphed into a much more ambitious effort to push for comprehensive democratic reform in Hong Kong. The public had no confidence that the Hong Kong government could sufficiently defend Hong Kong's autonomy.<sup>9</sup> Months of large-scale protests ensued, which were met with an aggressive response from the Hong Kong police, and increasingly pugnacious rhetoric from Beijing.<sup>10</sup>

---

*On 9 June 2019, an estimated 1 million protesters marched on the streets of Hong Kong Island to demand the government withdraw a controversial extradition bill. Credit: Studio Incendo.<sup>11</sup>*



---

<sup>6</sup> Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019.

<sup>7</sup> "Additional Observations of the Hong Kong Bar Association ('HKBA') on the HKSAR Government's Proposed Further Changes to the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019." Hong Kong Bar Association. June 6, 2019.

<sup>8</sup> "Bricks, Bottles and Tear Gas: Protesters and Police Battle in Hong Kong." *The New York Times*, June 11, 2019. <https://www.ny-times.com/2019/06/12/world/asia/hong-kong-protest-extradition.html>

<sup>9</sup> Fong, Brian C.H. "The Future of Hong Kong's Autonomy," *The Diplomat*, October 29, 2019, <https://thediplomat.com/2019/10/the-future-of-hong-kongs-autonomy/>.

<sup>10</sup> Chung, Kimmy, Clifford Lo, and Danny Mok. "Hong Kong Police Admit 'Aggressive Tactics', amid Tensions with Media," *South China Morning Post*, October 28, 2019, <https://www.scmp.com/news/hong-kong/politics/article/3035256/hong-kong-police-admit-adopting-more-aggressive-tactics-bid>

<sup>11</sup> Image by Studio Incendo is licensed under CC BY 2.0. <https://www.flickr.com/photos/studiokanu/48108527758/in/album-72157709404353282/>

For its part, the Hong Kong government proved either unwilling or unable to respond to public demands or negotiate with the protest movement, even as it became clear that its failure to do so was itself feeding public resentment and mistrust. Further, the closing space in the mainland, illustrated by the shuttering of civil society, imprisoning of dissidents (including the recent 10-year sentencing of Hong Kong bookseller Gui Minhai), and the mass internment of the Uighur population in Xinjiang, has raised concerns among Hong Kongers that Beijing's growing authoritarian posture would have dire effects on the territory's future.<sup>12</sup> The recent arrest of three prominent pro-democracy leaders has further exacerbated those concerns.<sup>13</sup>

Roughly eight months into the crisis, it appears the protest movement and the Hong Kong government have reached a stalemate. As events of the past several months have shown, the pro-democracy movement has managed to maintain its momentum: in early 2020, roughly a year after the initial extradition bill was released, protest organizers are still able to call hundreds of thousands of protesters out into the street on a regular and sustained basis.<sup>14</sup> Despite both the day-to-day disruptions and the significant economic and social costs that the protests have caused, the movement has retained the support of a majority of Hong Kong people, as demonstrated by the historic victory won by pro-democratic candidates in the District Council elections in November 2019.<sup>15</sup>

And yet, given Hong Kong's quasi-democratic political structure and the many levers of influence and power wielded by Beijing, no amount of protest has forced the Hong Kong government to the bargaining table. It seems clear that, at present, the Hong Kong government and Beijing are determined to stick to their wait-and-see strategy in the hopes that the energy of the protesters will eventually fade. They may believe that protesters will be deterred by aggressive policing and ever-escalating threats of criminal punishment, and that the situation in Hong Kong will return to the pre-protest status quo.

Stakeholders in Hong Kong noted to the assessment team that the Hong Kong government and Beijing have adopted a flawed strategy, one that fundamentally misunderstands the situation on the ground in Hong Kong. Instead, interlocutors noted, Beijing should immediately empower the Hong Kong government to offer negotiations with representatives of the protest movement to end the crisis and to re-invigorate the political reform process in Hong Kong.

This report highlights the seriousness of the ongoing crisis and makes the case for urgent and immediate efforts by all sides to negotiate an end to the current stalemate. It also documents how steps by Beijing to assert greater control over Hong Kong in recent years have directly contributed to the current moment and argues that any long-term solution should include a fresh look at the political reform commitments established under the Basic Law. While the COVID-19 outbreak presents a new type of crisis for Hong Kong, the political issues remain salient as effective governance and trust in government are necessary conditions for public health responses.

<sup>12</sup> "Gui Minhai: Hong Kong Bookseller Gets 10 years", *BBC*, February 25, 2020. <https://www.bbc.com/news/world-asia-china-51624433>; Feng, Emily. "Rights Activist Xu Zhiyong Arrested In China Amid Crackdown On Dissent," *National Public Radio*, February 17, 2020, <https://www.npr.org/2020/02/17/806584471/rights-activist-xu-zhiyong-arrested-in-china-amid-crackdown-on-dissent>; Shieh, Shawn. "Remaking China's Civil Society in the Xi Jinping Era," *China File*, August 2, 2018, <https://www.chinafile.com/reporting-opinion/viewpoint/remaking-chinas-civil-society-xi-jinping-era>; Maizland, Lindsay. "China's Repression of Uighurs in Xinjiang," Council on Foreign Relations Backgrounder, November 25, 2019, <https://www.cfr.org/backgrounder/chinas-repression-uighurs-xinjiang>

<sup>13</sup> "'Blatant Suppression': Hong Kong Publisher Jimmy Lai Arrested", *Al Jazeera*, February 27, 2020. <https://www.aljazeera.com/news/2020/02/suppression-hong-kong-publisher-jimmy-lai-arrested-200228032241354.html>

<sup>14</sup> Xie, Stella Yifan. "Hong Kong Protest—Approved by Police—Ends With Tear Gas, Arrests," *Wall Street Journal*, January 20, 2020, <https://www.wsj.com/articles/hong-kong-protest-approved-by-police-ends-with-tear-gas-arrests-11579441327>

<sup>15</sup> Lai, K. K. Rebecca, and Jin Wu. "Hong Kong Election Results Mapped," *The New York Times*, November 24, 2019, <https://www.nytimes.com/interactive/2019/11/24/world/asia/hong-kong-election-results.html>

This report proceeds in four subsequent sections. Part Two describes Beijing's obligations under the Basic Law, with special attention to the Basic Law's democratic character. Part Three describes the road to the current crisis, with an emphasis on the five years between the 2014 Umbrella Movement and the 2019 extradition law crisis. Part Four covers the events of 2019, arguing that the government has consistently taken actions that have been counterproductive to finding a resolution to the crisis, and that a fundamental shift in the government's approach is urgently needed. Part Five concludes with recommendations for the various parties to the crisis, including the Hong Kong government, the central government in Beijing, the pro-democracy protest movement, and the international community.

## II. The Basic Law - Guaranteeing Hong Kong's Autonomy?

Both the Joint Declaration and the Basic Law have been at the heart of Hong Kong's qualified success as an autonomous administrative region in the years since 1997.<sup>16</sup> At the same time, both documents have limitations, even flaws, that have directly contributed to the current crisis. This section introduces the key provisions of these documents and outlines how their structural shortcomings, particularly in the area of democratic reform, created a path to the current crisis.

The Chinese Communist Party (CCP) embrace of the Joint Declaration and the Basic Law stemmed more from political and economic necessity than from any real commitment to the liberal and democratic values put forward in both documents. For many in Hong Kong, however, the Joint Declaration and the Basic Law were not only a statement of core values but also a set of promises on autonomy, the rule of law, and democratic reform that would and should be kept. Over time, those diverging views on the role and importance of Hong Kong's foundational documents contributed to an ever-widening gap between the central government in Beijing and the people of Hong Kong.

Both the Joint Declaration and the Basic Law were products of their historical moment. As negotiations over Hong Kong's fate began in the late 1970s, Beijing needed to find a way to assure both the people of Hong Kong and the world that it would not seek to impose the mainland's authoritarian political system on a much more open Hong Kong. By making public and legally binding commitments to preserve and respect Hong Kong's autonomy, Beijing sought to win public trust and confidence in its management of Hong Kong, particularly since the Chinese leadership viewed Hong Kong as vital to the mainland's own economic and political development.

The Basic Law, Hong Kong's de facto constitution, was promulgated in accordance with China's obligations under the Joint Declaration and includes commitments to democratic reform, protection of human rights, and adherence to the rule of law. The key democratic elements of the Basic Law are more nuanced and have proved more susceptible to manipulation and foot-dragging by Beijing. Under Articles 45 and 68 of the Basic Law, the "ultimate aim" of the selection process for the chief executive and the Legislative Council is election by "universal suffrage," but other provisions in the Basic Law (specifically Annexes I and II) create barriers to democratic reform.

Basic Law Article 45 and Annex I, for example, combine to create an easy-to-manipulate electoral system that effectively guarantees China's control over the selection of the Chief Executive through a Beijing-friendly Election Committee. This 1,200-member committee is chosen by approximately 240,000 electors, mostly from business, trade associations, and professional networks in the pro-establishment camp, the group of political parties usually aligned with Beijing.<sup>17</sup> Likewise, half of the Legislative Council's 70 seats are chosen by functional constituencies

---

<sup>16</sup> The Sino-British Joint Declaration (the Joint Declaration) signed by Margaret Thatcher, former Prime Minister of the United Kingdom, and Deng Xiaoping in 1984, qualified the meaning of a "high degree of autonomy" in Hong Kong for the first time. One of the key stipulations in the Joint Declaration was that its policies form a "Basic Law." Following this lead, representatives from Hong Kong and mainland China drafted the Basic Law in accordance with the Joint Declaration to serve as Hong Kong's de facto constitution for the 50-year period from July 1, 1997 through June 30, 2047.

<sup>17</sup> Scott, Brendan, Robert Olsen, Adrian Leung, and Yue Qiu. "How China Holds Sway Over Who Leads Hong Kong," *Bloomberg*,



## The Election Committee Electorate

**7.5M** – population of Hong Kong

**4.1M** – registered voters

**1,200** – election committee members

**300**

Industrial,  
commercial, and  
financial sectors

**300**

The Professions –  
accountants, lawyers,  
teachers and others

**300**

Labor, social  
services, religious  
and others

**300**

Members of  
Hong Kong and Chinese  
political bodies

Chief Executive

*While there are 4.1 million eligible voters in Hong Kong, the Election Committee that chooses the Chief Executive is composed of 1,200 members.*

mostly representing sectors from the pro-establishment camp.<sup>18</sup> Several sectors with corporate body electors typically have no contest for legislative seats.<sup>19</sup>

While the ultimate aim outlined in the Basic Law is election by “universal suffrage,” Beijing has dragged its feet on this reform, citing the provision that calls for “gradual and orderly progress.” In its August 2014 decision on political reform, Beijing limited the selection of future chief executive candidates to a Nominating Committee with similar composition to the Election Committee. This allowed Beijing to retain control of whom Hong Kong people could vote for, while still technically allowing everyone to vote. This model was rejected by the pan-democratic members of the Legislative Council, who at that time had enough seats to block a bill where a two-thirds vote was required. Beijing likewise declared that any change in the method of electing the Legislative Council would first require initiation of universal suffrage for the chief executive, leaving the democratic reform process at an impasse.<sup>20</sup>

February 28, 2017, <https://www.bloomberg.com/graphics/2017-hk-election/>

<sup>18</sup> “Guidelines on the Legislative Council Election.” Hong Kong Electoral Affairs Commission, The Government of the Hong Kong Special Administrative Region, June 27, 2016, [https://www.eac.hk/pdf/legco/2016lc\\_guide/https://www.eac.hk/en/legco/2016lc\\_guide.htm/en/lc\\_full\\_guide.pdf](https://www.eac.hk/pdf/legco/2016lc_guide/https://www.eac.hk/en/legco/2016lc_guide.htm/en/lc_full_guide.pdf)

<sup>19</sup> Basic Law Article 68 Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China 1990, [https://www.basiclaw.gov.hk/en/basiclawtext/images/basiclaw\\_full\\_text\\_en.pdf](https://www.basiclaw.gov.hk/en/basiclawtext/images/basiclaw_full_text_en.pdf)

<sup>20</sup> Decision Relating to the Method for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage (promulgated by Standing Committee of the National People’s Congress) Paragraph 9.

Many protesters now feel quite strongly that Beijing has no intention to move forward with democratic reforms anytime soon, unless the CCP leadership is somehow forced to do so by sustained public pressure. For many in Hong Kong, the current crisis is a problem of Beijing's own making: for years, it has dragged its feet on democratic reform and sought to avoid fulfilling the promises it made in the years before the 1997 handover.

Another key deficiency within the Basic Law that has plagued Hong Kong's political and legal development is Article 158. Under Article 158, the ultimate power of interpreting the Basic Law rests with China's National People's Congress Standing Committee (NPCSC), a political body whose political-legal outlook differs significantly from that of the Hong Kong judiciary. The NPCSC was relatively restrained in using this power over the first decade following the 1997 handover. Since then, however, Beijing has used its Article 158 authority more often and in more overt ways that protect Beijing's interests or undercut the ability of the Hong Kong courts to protect the basic rights of Beijing's perceived foes.



*A meeting of the NPC at the Great Hall of the People in Beijing.<sup>21</sup>*

These shortcomings in the Basic Law structure have created a Hong Kong government that is incapable or unwilling to guard Hong Kong's autonomy, and is instead viewed by many in Hong Kong as overly beholden to Beijing. Indeed, Beijing's effective sway over the Election Committee means that anyone who wants to serve as chief executive must win Beijing's favor. At least in the chief executive electoral context, the support of Hong Kong people is a secondary consideration, relevant only insofar as Beijing takes it into account as a measure of a candidate's potential to govern effectively.

The final result of Hong Kong's quasi-democratic electoral structure is both a government and a legislature that lack the public legitimacy to govern effectively. Such is the political dysfunction generated by Hong Kong's political system that, since 1997, none of Hong Kong's first three chief executives were able to serve two full five-year terms.

<sup>21</sup> Image credit: "18th National Congress of the Communist Party of China," Wikimedia Commons, [https://commons.wikimedia.org/wiki/File:18th\\_National\\_Congress\\_of\\_the\\_Communist\\_Party\\_of\\_China.jpg](https://commons.wikimedia.org/wiki/File:18th_National_Congress_of_the_Communist_Party_of_China.jpg)

Carrie Lam, the fourth Chief Executive to take office since 1997, will almost certainly face a similar fate: there is near-universal agreement among political analysts in Hong Kong that she will not be allowed to serve a second full term. Indeed, her administration's decision to move forward with a deeply unpopular extradition bill, and to initially disregard a torrent of public opposition, seemed to almost perfectly illustrate the pull exerted by Beijing on chief executives under the current electoral framework: as her office pushed forward with the proposed extradition reforms, the Hong Kong government took steps meant to bolster its support in Beijing, and ignored the views of the people of Hong Kong.

During our assessment meetings in Hong Kong, we heard from several interlocutors that democratic elections are the only way to fix the serious legitimacy and accountability deficits that both the Hong Kong government and the Legislative Council face. If Beijing were to re-start the democratic reform process that stalled in 2015, it might well be rewarded with a chief executive and a LegCo that could govern more effectively and that might be able to reduce social tensions in Hong Kong.

### III. Beijing's Interventions and the Road to the Extradition Crisis

The 2019 protests were triggered by the proposed extradition law, but the anger and frustration that has sustained them was years in the making. As noted above, the people of Hong Kong have been waiting many years for the democratic reforms promised by the Basic Law. At the same time, many in Hong Kong have grown increasingly worried over Beijing's tightening control over Hong Kong. Indeed, they have been bitterly disappointed as the Hong Kong government has stood silently by in the face of Beijing's interference. In some cases, the Hong Kong government has actively assisted Beijing in its efforts to increase central government control.

In early 2019, before the Lam administration introduced its extradition law amendments, Beijing had reason to believe its Hong Kong strategy was succeeding. The 2014 pro-democracy Umbrella Movement had been successfully quelled, with some of its key leaders facing or convicted of criminal charges. In 2017, pro-Beijing legislators gained their first-ever veto-proof majority in the Legislative Council, after four pan-democratic legislators were disqualified over alleged improper oath-taking.<sup>22</sup> From Beijing's perspective, the situation in Hong Kong looked largely favorable. In that context, efforts to move forward with extradition law reforms that benefited Beijing may well have seemed well-timed.

This section outlines prior efforts to reform Hong Kong's political system and describes the ways in which those failed efforts fed public frustration that festered for years until exploding in 2019. Though Beijing's cost-benefit calculus is not fully known, we examine whether the current approach, that of blocking meaningful democratic reform indefinitely, is truly in Beijing's interest. Given deep public dissatisfaction with the existing system, even if the current protests were to end tomorrow, a new crisis would always be one governmental misstep away.

#### *The Democratic Reform Push and the Umbrella Movement: A Missed Opportunity?*

As noted above, Hong Kong's Basic Law requires gradual and orderly progress toward elections for both the chief executive and the Legislative Council. Beijing has shown itself willing to allow limited reforms to move forward, but it has also looked to maintain strict control over the process, obstructing any reforms that would limit such control.

The battle over the democratic reform process entered a new phase in 2004 and continued through August 2014 with a pivotal decision by the Standing Committee of the National People's Congress.<sup>23</sup> On August 31, 2014,

<sup>22</sup> Lau, Chris, and Kimmy Chung. "Court Ruling Disqualifying Lawmakers 'a Declaration of War.'" *South China Morning Post*, July 14, 2017; <https://www.scmp.com/news/hong-kong/politics/article/2102609/four-more-hong-kong-lawmakers-disqualified-over-oath-taking>

<sup>23</sup> White, Roy, and Adam Nelson. "The Uncertain Future of 'One Country, Two Systems,'" *Promise of Democratization in Hong Kong*



Beijing issued its decision that the 2017 chief executive candidates would be selected by a Nominating Committee with a similar composition to the Election Committee. This decision angered many in Hong Kong, and launched the so-called Umbrella Movement, named for the umbrellas that protesters used to block tear gas being sprayed by the police. Over the course of 79 days, protesters occupied a major highway and commercial areas in Causeway Bay and Mong Kok. They also surrounded key government buildings and the Legislative Council building in Admiralty.

Though the Umbrella Movement failed to achieve its core goal of genuine universal suffrage for the chief executive, the movement did demonstrate a high degree of public support for democratic reforms. It is possible that the Hong Kong government and Beijing took the wrong lessons from the Umbrella Movement. In subsequent years, many observers viewed the events of 2014 and 2015 as a win for the pro-establishment camp and for Beijing. But the revival of street protests in 2019, the size, scope, intensity, and duration of which dwarf the 2014 Umbrella protests, call that conclusion into question. It now seems clear that, in blocking genuine electoral reforms in 2014, the Hong Kong government and Beijing missed an important opportunity to resolve the conflict over Hong Kong's democratic reform path.

Instead, the Hong Kong government and Beijing deeply disappointed many Hong Kong citizens and set the Special Administrative Region on a course toward deeper conflict. Beijing did not permanently solve the question of democratic reform in 2014, as it may have thought. Rather, it created a powder keg of frustration and resentment. By 2019, the powder keg was ready to blow.

#### *Creeping Interference, Mounting Influence: Beijing's Influence Efforts in Hong Kong, 2015-2019*

Beijing seems to have taken the wrong lessons from the Umbrella movement: that instability lurks around every corner, and tighter control is the only way to avoid future outbreaks of pro-democratic protest. As a result, the years following the Umbrella Movement witnessed increasing interference by Beijing in Hong Kong's affairs, and a steady erosion of Hong Kong's autonomy under the One Country, Two Systems framework.

The 2019 protests have made clear that Beijing's strategy of increased control has backfired: each and every step by Beijing to assert greater control has led to deeper public alienation, and deeper public mistrust of Beijing and the Hong Kong government. Beijing's flawed strategy has also led many in Hong Kong to conclude that democratic reform is the only way to safeguard Hong Kong's rule of law and open society values.

Perhaps the most concerning policy turn after the 2014 Umbrella Movement was the effort to arrest and prosecute key protest leaders, and to bar them from political office.<sup>24</sup> In August 2016, Umbrella Movement leaders Joshua Wong, Nathan Law, and Alex Chow were convicted of inciting unlawful assembly and sentenced to community service. In a surprising move, the government later appealed their sentences to ask for jail time. That appeal eventually failed, but it did signal that the government would zealously prosecute key leaders of the protest movement, even if doing so would cast doubt on the government's commitment to the core human rights protections found in the Basic Law.

The government continued a policy of aggressive prosecutions in early 2019, targeting the senior convenors of the Occupy Central movement. Particularly controversial was the government's decision to charge the so-called Hong Kong Nine with various common law crimes of nuisance and conspiracy to nuisance, all of which

---

report, No. 16, National Democratic Institute, September 2016, <https://www.ndi.org/sites/default/files/Promise%20of%20Democratization%20in%20Hong%20Kong%20-%202016.pdf>

<sup>24</sup> Rauhala, Emily. "Hong Kong Student Leaders Jailed for 2014 Pro-Democracy Protest," *The Washington Post*, August 17, 2017, [https://www.washingtonpost.com/world/hong-kong-student-leaders-jailed-for-2014-pro-democracy-umbrella-protest/2017/08/17/ba7a92d4-8310-11e7-82a4-920da1aeb507\\_story.html](https://www.washingtonpost.com/world/hong-kong-student-leaders-jailed-for-2014-pro-democracy-umbrella-protest/2017/08/17/ba7a92d4-8310-11e7-82a4-920da1aeb507_story.html).

carry heavier punishments than lesser charges like unlawful assembly.<sup>25</sup> All nine were convicted and received punishments of varying degrees of severity.

Other aggressive policies have called into question the Hong Kong government's commitment to civil liberties, and raised fears that Hong Kong government officials were pressured by their mainland counterparts to adopt a firm line against pro-democracy activists and politicians. In July 2016, the government announced that all candidates for the 2016 Legislative Council elections would have to certify their acceptance of Hong Kong as an inalienable part of China.<sup>26</sup> This move was viewed by many as a clear effort by the Hong Kong government to exclude nascent pro-Hong Kong independence parties from the electoral process. It resulted in the exclusion of six candidates.<sup>27</sup>



*Student activists Joshua Wong (l) Nathan Law (c) and Alex Chow (r) after being sentenced on charges relating to the events which sparked off Hong Kong's 2014 mass pro-democracy protests. Credit: Alex Hofford.<sup>28</sup>*

<sup>25</sup> "Hong Kong: Drop Case Against 'Umbrella Nine'," *Human Rights Watch*, November 14, 2018, <https://www.hrw.org/news/2018/11/14/hong-kong-drop-case-against-umbrella-9>

<sup>26</sup> Ng, Joyce and Ng Kang-chung, "Accept Hong Kong is part of China or you can't run in Legco elections," *South China Morning Post*, July 14, 2016. <https://www.scmp.com/news/hong-kong/politics/article/1989910/accept-hong-kong-part-china-or-you-cant-run-leg-co-elections>.

<sup>27</sup> Ng, Joyce, Tony Cheung and Owen Fung. "Protests Shut down Electoral Commission Briefing as Hong Kong Indigenous' Edward Leung Disqualified from Legco Elections," *South China Morning Post*, August 2, 2016, <https://www.scmp.com/news/hong-kong/politics/article/1998201/hong-kong-indigenous-edward-leung-disqualified-legislative>.

<sup>28</sup> Alex Hofford/EPA/Shutterstock

In September 2018, the government took further action against pro-independence candidates, making use of a public security law to ban the pro-independence Hong Kong National Party.<sup>29</sup> It was the first time that the government had formally banned a political party since the 1997 handover.

The government's efforts extended even to duly elected members of the Legislative Council. In October 2016, then-Chief Executive Leung Chun-ying moved to expel six newly elected legislators from the Legislative Council over their efforts to use the oath-taking ceremony as a platform to express political views. (All six had added words to their oaths, or otherwise recited them improperly or incompletely.) Before the Hong Kong courts had a chance to rule on the case, Beijing issued a Basic Law interpretation in November 2016 affirming the expulsions.<sup>30</sup> The loss of six members of their caucus left the LegCo pan-democrats with insufficient votes to block foundational legislation for the first time,<sup>31</sup> leaving the government free to push through virtually any legislation, as long as it maintains the full backing of the pro-establishment camp.

Hong Kong's universities and secondary schools have also been a key target over the past five years. Given the role that law professor Benny Tai played in the Occupy Central movement, the Law Faculty at the University of Hong Kong (HKU) has faced especially intense scrutiny. Its former dean, Johannes Chan, after being selected in a world-wide search for a higher pro-vice chancellor position, was attacked in multiple media reports in Beijing-controlled newspapers, eventually leading to the rejection of his appointment from that senior administrative post.<sup>32</sup> Chan's rejection was widely viewed as politically motivated and was facilitated by the fact that the HKU University Council, the body which eventually turned down Chan's appointment, is stacked with many pro-establishment figures.

The potential for mainland cooptation of the Hong Kong judiciary has caused much greater concern, given the judiciary's absolutely vital role in protecting basic rights under the One Country, Two Systems framework. Quite simply, it would be difficult for the Hong Kong system to survive successful cooptation of the courts by Beijing. Fortunately, the judiciary has proven to be the most resilient and trusted of three main branches of government. It has largely resisted efforts by the Hong Kong government and Beijing to exert greater influence, both in specific cases, and more generally.<sup>33</sup>

For its part, the legal profession has also largely resisted pressure from outside actors. Indeed, in the months since the extradition bill protests began, countless lawyers have stood up to defend protesters accused of breaking the law.<sup>34</sup> Various groups have formed to coordinate and financially support legal defense for protesters and advocate for key legal issues. Still, many lawyers we spoke with worry that the government's determination to use law enforcement and the criminal courts as tools to resolve the ongoing political crisis will eventually put lawyers themselves in the government's crosshairs.

---

<sup>29</sup> Austin Ramzy. "Hong Kong Bans Pro-Independence Party," *New York Times*, September 24, 2018, <https://www.nytimes.com/2018/09/24/world/asia/hong-kong-party-ban-andy-chan.html>

<sup>30</sup> Interpretation of Article 104 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China by the Standing Committee of the National People's Congress, November 7, 2016; Also see Cheung, Gary, Tony Cheung and Joyce Ng. "China's top body lays down law on Hong Kong oath-taking," *South China Morning Post*, November 8, 2019, <https://www.scmp.com/news/hong-kong/politics/article/2043768/chinas-top-body-lays-down-law-hong-kong-oath-taking>

<sup>31</sup> Under Hong Kong's political framework, certain foundational legislation requires a two-thirds majority of the LegCo for passage.

<sup>32</sup> Ng, Joyce and Gloria Chan. "University of Hong Kong's council votes 12-8 to reject Johannes Chan's appointment as pro-vice-chancellor," *South China Morning Post*, September 29, 2015, <https://www.scmp.com/news/hong-kong/education/article/1862423/university-hong-kongs-council-votes-12-8-reject-johannes>

<sup>33</sup> Interviews with prominent lawyers, Hong Kong, December 2019.

<sup>34</sup> Melchior, Jillian Kay. "Meet the Hong Kong Lawyers Working to Keep Protesters Free," *Wall Street Journal*, December 24, 2019, <https://www.wsj.com/articles/meet-the-hong-kong-lawyers-working-to-keep-protesters-free-11577229407>



The steps taken by the Hong Kong government and Beijing between 2015 to 2018 constitute a sustained and unprecedented effort to crack down on political opposition and tighten control over Hong Kong. At the end of 2018, leaders in Hong Kong and Beijing could look back on their efforts with a degree of satisfaction. Resistance from the pan-Democratic camp and criticism from the international community had little impact on the situation on the ground, allowing the Hong Kong government and Beijing to implement their agenda unimpeded.

It is possible, then, that the above series of moves lulled Chief Executive Carrie Lam into a false sense of security. Her administration likely believed that further actions serving Beijing's interests would be met with ineffectual resistance from the pan-democratic camp, and would ultimately be accepted, perhaps begrudgingly, by the people of Hong Kong. Whatever its reasoning, it is clear the Hong Kong government miscalculated: efforts to push controversial extradition reforms resulted in the largest pro-democracy protests in Hong Kong history, and have plunged the administration and the entire Hong Kong Special Administrative Region into a deep crisis, one that seems far from over.

## IV. The 2019 Protests and Growing Threats to Autonomy and the Rule of Law

When the Hong Kong government put forward its extradition bill in early 2019, many were deeply concerned about its potential to undercut the rule of law in Hong Kong and grant Beijing the ability to target critics of the CCP leadership in Beijing. Given that the issue had lain dormant for years, many people speculated that Chief Executive Carrie Lam was acting at the behest, if not the express direction, of the CCP leadership in Beijing. Efforts to negotiate an extradition arrangement had failed for years under previous administrations due to the near-total incompatibility of the mainland system with Hong Kong's rule of law.<sup>35</sup>

The rapid evolution of the anti-extradition movement demonstrates that efforts to wait out pro-democratic protesters will likely fail, especially over the long term. Even if one wave of protests is quelled, another wave will likely emerge at the next precarious political moment.

### *The Extradition Bill*

The protest movement was triggered by the Lam administration's move, in February 2019, to introduce amendments to its extradition law, specifically the Fugitive Offenders Ordinance and the Mutual Legal Assistance in Criminal Matters Ordinance. The core provisions of the bill would have allowed extraditions from Hong Kong to any jurisdiction with which Hong Kong does not have an existing extradition agreement, including, most importantly and controversially, mainland China.<sup>36</sup>

Almost from the moment that the government put forward its proposals, key players in the Hong Kong legal community, including the Hong Kong Bar Council and prominent voices in legal academia, spoke out against the proposed changes.<sup>37</sup> As several experts pointed out, the government's proposals were significantly weaker than existing

<sup>35</sup> Lau, Stuart. "Planned Hong Kong-Macau Extradition Pact May Cover Current Fugitives," *South China Morning Post*, January 19, 2015, <https://www.scmp.com/news/hong-kong/article/1681763/planned-hong-kong-macau-extradition-pact-may-cover-current-fugitives>

<sup>36</sup> Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019, <https://www.legco.gov.hk/yr18-19/english/bills/b201903291.pdf>

<sup>37</sup> Lum, Alvin, and Lam Jeffie. "Government's Extradition Proposal a 'Step Backward', Says Bar Association." *South China Morning Post*, April 2, 2019. <https://www.scmp.com/news/hong-kong/politics/article/3004370/hong-kong-bar-association-calls-governments-extradition>

law.<sup>38</sup> In particular, the government's draft bill excluded the Legislative Council from any role in overseeing the extradition process, and allowed Hong Kong courts only a narrow avenue for review of extradition requests.<sup>39</sup>

As concerns over the bill's flaws continued to grow, other voices started to chime in, including leaders in the international business community, Hong Kong business associations, key members of the diplomatic corps, and even pro-establishment politicians.<sup>40</sup> While the draft bill included some key protections, such as a bar on extradition for political crimes and some degree of judicial review, many critics viewed the level of protections put forward as inadequate, and the government's unwillingness to engage in meaningful dialogue with its critics as troubling.<sup>41</sup>

Despite the growing chorus of calls to withdraw the bill, the government pressed on and was prepared to push for final passage of the controversial bill in the Legislative Council in June 2019.<sup>42</sup> The government's efforts were finally halted only by massive public protests, the largest in Hong Kong history, in which millions took to the streets to stop the government from moving forward.<sup>43</sup> The government formally suspended, but did not withdraw, the bill on June 15, but by then the protests had become a broader pro-democratic movement that almost a year later continues to bring people to the streets.<sup>44</sup>

### *The Protest Movement Begins*

The government's apparent view that wide-ranging consultation and dialogue, much less meaningful compromise, was unnecessary should be understood in context. In the weeks after the bill was issued, many in the pan-democratic camp began to mobilize in an effort to draw attention to the bill's very serious flaws. And yet, given the government's record of achieving its key objectives over the past five years, many observers believed that passage of the bill was only a matter of time. The government might yet again ruffle some feathers over its proposed policy changes, but in the end it would get much of what it wanted from a compliant Legislative Council.<sup>45</sup>

On March 31, the Civil Human Rights Front, a consortium of 49 different civic groups, organized its first protest march against the bill. That initial protest drew roughly 12,000 people.<sup>46</sup> Protests grew steadily after

<sup>38</sup> "Observations of the Hong Kong Bar Association ('HKBA') on the HKSAR Government's Proposed Further Changes to the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019," Hong Kong Bar Association, April 2, 2019.

<sup>39</sup> Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019

<sup>40</sup> "Open Letter to the Chief Executive – On Proposed Changes to Hong Kong's Extradition Laws," 國際特赦組織香港分會 *Amnesty International Hong Kong*, June 6, 2019, <https://www.amnesty.org.hk/en/open-letter-to-the-chief-executive-on-proposed-changes-to-hong-kongs-extradition-laws-2/>; "Hong Kong Introduces Concessions to Extradition Bill, but Critics Say Not Enough," *Reuters*, May 30, 2019, <https://www.reuters.com/article/us-hongkong-politics-extradition/hong-kong-introduces-concessions-to-extradition-bill-but-critics-say-not-enough-idUSKCN1T0114>; Lok-kei, Sum, and Su Xinqi. "Top Foreign Diplomats Voice Deep Concerns over Fugitive Bill at Legco," *South China Morning Post*, May 27, 2019, <https://www.scmp.com/news/hong-kong/politics/article/3011931/hong-kong-extradition-row-rages-diplomats-and-lawmakers>; Ives, Mike. "Pro-Beijing Lawmaker in Hong Kong Urges Restraint on Extradition Bill, Signaling Discord," *The New York Times*, June 14, 2019, <https://www.nytimes.com/2019/06/14/world/asia/hong-kong-protests-extradition-law.html>

<sup>41</sup> Chiu, Peace. "Dialogue with Hong Kong Government over Extradition Bill 'Not Realistic', Joshua Wong and Fellow Student Leader Say," *South China Morning Post*, June 24, 2019, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3015776/dialogue-hong-kong-government-over-extradition-bill>

<sup>42</sup> Davidson, Helen, and Lily Kuo. "Hong Kong Protests: Government Vows to Push Ahead with Extradition Bill," *The Guardian*, June 10, 2019, <https://www.theguardian.com/world/2019/jun/10/hong-kong-protests-china-state-media-foreign-forces-extradition-bill>

<sup>43</sup> Bradsher, Keith, and Alexandra Stevenson. "Hong Kong's Leader, Yielding to Protests, Suspends Extradition Bill," *The New York Times*, June 15, 2019, <https://www.nytimes.com/2019/06/15/world/asia/hong-kong-protests-extradition-law.html>

<sup>44</sup> "Hong Kong Protests: Updates and Latest on City's Political Unrest," *CNN*, <https://www.cnn.com/specials/asia/hong-kong-protests-intl-hnk>.

<sup>45</sup> Author interviews, Hong Kong, December 2019.

<sup>46</sup> Chan, Holmes. "In Pictures: 12,000 Hongkongers March in Protest against 'evil' China Extradition Law, Organisers Say," *Hong Kong*

that modest start. On April 28, an estimated 130,000 people took to the streets to protest the bill, more than ten times the number who took part roughly a month before.<sup>47</sup> Government officials largely ignored this protest, and publicly called for the extradition bill to be passed immediately, despite these clear signs of growing public concern.

The government also faced growing pressure from the business community.<sup>48</sup> Many businesspeople in Hong Kong believed that they might be the ones to find themselves on the receiving end of an extradition request in response to a business dispute with a mainland Chinese partner. Lam administration officials partially responded to the concerns raised by the business community by removing some key economic crimes from the list of extraditable offences. The government also raised the bar for extradition to offenses punishable by seven years' imprisonment, rather than only three years as written in the initial draft.<sup>49</sup>

Pro-democratic legislators in the Legislative Council, their numbers diminished by the 2016 expulsions, used every tool at their disposal to slow the bill's progress, including filibusters and other procedural moves. After making minimal concessions at the end of May, the government made ready to push for final passage in June. It appeared, at that moment, that the government would likely succeed in passing the bill before the mid-July legislative recess.

### *A Dramatic Escalation: the June Protests*

On June 9, 2019, more than one million people in a city of roughly 7.4 million took to the streets in protest, demanding that the government immediately withdraw the bill.<sup>50</sup> The peaceful protest was among the largest in Hong Kong history, dwarfing even the large-scale Umbrella protests five years earlier.<sup>51</sup> And yet, the Hong Kong government released a statement that same day, making clear that the bill would continue to move forward.<sup>52</sup> The government did pledge to "continue to engage, listen and allay concerns," but also noted that the second reading of the bill would proceed as scheduled just three days later on June 12.<sup>53</sup>

Perhaps inevitably, June 12 became a showdown, with protesters determined to physically block access to the Legislative Council building to prevent the scheduled reading of the bill. Indeed, some protesters took steps to occupy the grounds around the Legislative Council building indefinitely, bringing in supplies and erecting

---

*Free Press*, March 31, 2019, <https://www.hongkongfp.com/2019/03/31/pictures-12000-hongkongers-march-protest-evil-china-extradition-law-organisers-say/>

<sup>47</sup> Lok-kei, Sum, and Ng Kang-chung. "130,000 Join March against Proposed Extradition Law, Organiser Says," *South China Morning Post*, April 28, 2019, <https://www.scmp.com/news/hong-kong/politics/article/3007999/thousands-set-join-protest-march-against-proposed>

<sup>48</sup> Stevenson, Alexandra, and Keith Bradsher. "As Hong Kong Erupted Over Extradition Bill, City's Tycoons Waited and Worried," *The New York Times*, June 20, 2019, <https://www.nytimes.com/2019/06/20/business/hong-kong-business-extradition.html>

<sup>49</sup> The government was responding to public concerns voiced by key local business groups, including the Hong Kong General Chamber of Commerce, the Chinese Manufacturers Association of Hong Kong, and the Hong Kong Chinese Importers and Exporters Association; "Hong Kong introduces concessions to extradition bill, but critics say not enough," *Reuters*, May 30, 2019, <https://www.reuters.com/article/us-hongkong-politics-extradition/hong-kong-introduces-concessions-to-extradition-bill-but-critics-say-not-enough-idUSKCN1T01I4>

<sup>50</sup> Creery, Jennifer. "Over a Million Attend Hong Kong Demo against Controversial Extradition Law, Organisers Say," *Hong Kong Free Press*, June 9, 2019, <https://www.hongkongfp.com/2019/06/09/just-no-china-extradition-tens-thousands-hong-kong-protest-controversial-new-law/>

<sup>51</sup> In an ominous sign of the violence to come, some protesters clashed with police in the early morning hours of Monday, June 10; Ramzy, Austin. "Hong Kong March: Vast Protest of Extradition Bill Shows Fear of Eroding Freedoms," *The New York Times*, June 9, 2019, <https://www.nytimes.com/2019/06/09/world/asia/hong-kong-extradition-protest.html>

<sup>52</sup> "Government Response to Procession," Press Release, The Government of the Hong Kong Special Administrative Region, June 9, 2019, <https://www.info.gov.hk/gia/general/201906/09/P2019060900587.htm>

<sup>53</sup> *ibid.*

barricades to help solidify their position.<sup>54</sup> The police signaled their readiness to meet the challenge, stating that “police will take resolute actions to restore social order and protect public safety.”<sup>55</sup>

The result was perhaps one of the most violent days in Hong Kong’s modern history, with tens of thousands of largely peaceful protesters pitted against police armed with riot gear. By the time the day was over, more than 70 protesters were hospitalized, some with serious injuries, and 32 were arrested. Protesters did succeed in blocking access to the Legislative Council, thus delaying further progress on the extradition bill.

Determined to clear the area around the Legislative Council of protesters, the police used all the tools at their disposal to achieve that goal, including tear gas, pepper spray, rubber bullets, bean-bag rounds, and batons. A small number of protesters also engaged in acts of violence, including allegedly throwing bottles and other projectiles at police and blocking entry into the building by pro-establishment members. But the vast majority of protesters remained peaceful.

Several investigations by non-governmental organizations, media outlets, independent experts, and others have concluded that police use of force on June 12 was excessive, and in many cases targeted peaceful protesters, first aid volunteers, and reporters.<sup>56</sup>



*Protesters gather outside of the Hong Kong Legislative Council Building on June 12, 2019.*

*Credit: Studio Incendo<sup>57</sup>*

The seemingly excessive use of force by the police largely served to enrage protesters and further strengthen their resolve to continue the fight. “We are trying to tell the government that the more they suppress us, the more we will fight back,” one protester told a journalist. “Being the last city in China that is able to do that, we are going to hold on to that right.”<sup>58</sup>

A few days later, on June 15, the government held a press conference to announce the suspension of the bill.<sup>59</sup> Because the bill was being suspended but not withdrawn, it could be re-introduced at any time, encouraging more determined opposition.

<sup>54</sup> Barron, Laignee. “Protests Force Hong Kong to Postpone Extradition Bill Debate,” *Time*, June 12, 2019, <https://time.com/5605154/hong-kong-extradition-strike-protests/>

<sup>55</sup> “Police Take Action to Stop Riot,” Press Release, The Government of the Hong Kong Special Administrative Region, June 12, 2019, <https://www.info.gov.hk/gia/general/201906/12/P2019061200801.htm>

<sup>56</sup> “How Not to Police a Protest: Unlawful Use of Force by Hong Kong Police,” Amnesty International, June 21, 2019. <https://www.amnesty.org/download/Documents/ASA1705762019ENGLISH.pdf>

<sup>57</sup> Image by Studio Incendo is licensed under CC BY 2.0. <https://www.flickr.com/photos/studiokanu/48177240006/in/faves-39001016@N00/>

<sup>58</sup> McLaughlin, Timothy. “Protesters Storm Hong Kong’s Streets over Extradition Bill; Police Respond with Tear Gas, Rubber Bullets,” *The Washington Post*, June 11, 2019, [https://www.washingtonpost.com/world/protesters-storm-hong-kongs-streets-block-roads-as-legislature-prepares-to-debate-china-extradition-bill/2019/06/11/2ae623c4-8c76-11e9-b6f4-033356502dce\\_story.html](https://www.washingtonpost.com/world/protesters-storm-hong-kongs-streets-block-roads-as-legislature-prepares-to-debate-china-extradition-bill/2019/06/11/2ae623c4-8c76-11e9-b6f4-033356502dce_story.html)

<sup>59</sup> Bradsher, Keith. “Hong Kong’s Leader Publicly Apologizes for Extradition Bill.” *The New York Times*, June 18, 2019, <https://www.nytimes.com/2019/06/18/world/asia/hong-kong-carrie-lam-apology.html>



On June 16, an estimated two million people turned out in protest, making it the largest protest in Hong Kong history. Many protesters called for Carrie Lam's resignation, while others insisted that the bill be fully and finally withdrawn. Others turned out to protest against the excessive use of force by the police on June 12, which reaffirmed a pattern that would emerge again and again in the months to come. Police use of force, rather than deterring protesters, instead motivated them to continue taking to the streets in greater numbers.

The protests revealed the public's deep frustration that only massive public mobilization could influence the government to take action in response to clearly-voiced public demands. In other words, the democratic deficits in Hong Kong's political system meant that the normal avenues of political participation—including voting, legislative lobbying, and political advocacy—were effectively broken, such that only wide-ranging democratic reforms could fix them and restore public confidence in the Hong Kong government. The government's efforts to push forward with the bill, even in the wake of the historic protests, also irrevocably destroyed the Lam administration's credibility. Even some pro-establishment politicians called for her to step down.<sup>60</sup>

The use of hardline tactics by the police first emerged in the June protests and would become a staple tool used by the government in an apparent effort to break the will of protesters.<sup>61</sup> In the months to come, however, this produced the paradoxical effect of continuing to drive public participation in and support for the protest movement.

The events of mid-June also turned the extradition bill fight into a major international story, one heavily covered by the international media and followed closely by interested citizens around the world. Key global media outlets, many of them based in Hong Kong, could not resist the David-versus-Goliath narrative that the protests fostered.

Many of the observers we interviewed in Hong Kong felt that the growing international attention should have compelled a re-evaluation of Beijing's strategy. The reputational costs, to both Hong Kong and Beijing, were mounting, and needed to be weighed against whatever benefits would be had from a persistent refusal to negotiate. Instead, Beijing doubled down on its hard line, insisting that the Hong Kong government refrain from meaningful concessions to the protest movement.<sup>62</sup>

Alongside this hardline strategy vis-à-vis protesters, Beijing repeatedly pushed a false narrative laying blame on malevolent "foreign forces" for the protests.<sup>63</sup> In fact, during the assessment period for this report, NDI and three other organizations were officially sanctioned by Beijing during a Ministry of Foreign Affairs press conference that perpetuated these rhetorical attacks.<sup>64</sup> Such accusations not only seek to spread disinformation, but also fail to recognize the organic nature of the protest movement in Hong Kong, which stems from genuine grievances.<sup>65</sup>

<sup>60</sup> Author interviews, Hong Kong, December 2019.

<sup>61</sup> Erheriene, Ese, and John Lyons. "Hong Kong Police's New Tactics Follow Return of Former Hard-Line Officer," *Wall Street Journal*, August 13, 2019, <https://www.wsj.com/articles/hong-kong-polices-new-tactics-follow-return-of-former-hard-line-officer-11565701867>

<sup>62</sup> Bradsher, Keith. "Beijing's Hong Kong Strategy: More Arrests, No Concessions," *The New York Times*, August 30, 2019, <https://www.nytimes.com/2019/08/30/world/asia/hong-kong-protests-beijing.html>

<sup>63</sup> Myers, Steven Lee. "In Hong Kong Protests, China Angrily Connects Dots Back to U.S.," *The New York Times*, September 5, 2019, <https://www.nytimes.com/2019/09/05/world/asia/china-hong-kong-protests.html>.

<sup>64</sup> "Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference on December 2, 2019," Ministry of Foreign Affairs of the People's Republic of China, December 2, 2019, [https://www.fmprc.gov.cn/mfa\\_eng/xwfw\\_665399/s2510\\_665401/2511\\_665403/t1720852.shtml](https://www.fmprc.gov.cn/mfa_eng/xwfw_665399/s2510_665401/2511_665403/t1720852.shtml)

<sup>65</sup> Mitchell, Derek. "Reinvigorating Democracy in Asia and Beyond," Speech given at the Foreign Correspondents' Club in Hong Kong, National Democratic Institute, November 27, 2019, <https://www.ndi.org/publications/ndi-president-derek-mitchell>

The June protests also initiated the articulation of a broader set of demands beyond the withdrawal of the extradition bill. In the weeks to come, the protest movement would coalesce around a set of five core demands: (1) full withdrawal of the extradition bill; (2) an independent commission of inquiry into allegations of police brutality; (3) amnesty for arrested protesters; (4) the retraction of the classification of protesters as rioters; and (5) dual universal suffrage, meaning universal suffrage for both the LegCo and the Chief Executive.<sup>66</sup>

### *The Movement Continues: July-November 2019*

In the weeks and months following the suspension of the bill and the record-setting June 16 protest, the movement continued to look for ways to press the Hong Kong government and, by extension, Beijing, to respond to its five demands. This period witnessed continued street protests, the storming of public buildings, the takeover of Hong Kong International Airport, and boycotts of pro-establishment businesses. Protesters seemed to be looking for ways to force the government to respond to their demands and keep the movement itself alive by continually shifting their tactics. For its part, the government refused to negotiate, largely relying on the escalating use of force and the threat of criminal sanctions as its main tools to end the protests.<sup>67</sup>

Many in the movement were focused on maintaining momentum, and July 1, the 22nd anniversary of Hong Kong's reversion to Chinese sovereignty, provided an opportunity to make a clear statement. The Civil Human Rights Front organized yet another protest, one that would serve as an important counterpoint to official anniversary festivities. More than 500,000 protesters peacefully marched, chanting slogans and carrying signs that reiterated support for the five demands.

And yet the events of that evening, when a smaller group of protesters smashed windows and doors and broke into the Legislative Council building, ended up dominating media coverage. Several hundred protestors stormed the building, and occupied the floor of the LegCo for several hours.<sup>68</sup> This brief occupation of the Legislative Council also reflected a growing segmentation of the movement into more moderate and more radical streams. While peaceful protesters stuck to marches and other tactics such as economic boycotts, radical protesters judged such peaceful efforts as futile. While the movement aimed to maintain unity, tensions between the more moderate and more radical elements did continue to build in the months to come, particularly over the question of the role and appropriateness of violence (as discussed in more detail below).

Just a few weeks later, on July 21, Hong Kong was shocked by a significant escalation of violence against pro-democratic protesters. On that day, the Civil Human Rights Front organized another protest against the government, in which thousands participated.<sup>69</sup> Some participants were returning home to the Yuen Long neighborhood in Hong Kong's New Territories when they were attacked by over 100 men wearing white shirts and carrying iron bars and wooden clubs. Forty-five people were injured in the attack, five of them seriously.<sup>70</sup>

---

ell-speaks-hong-kong-reinvigorating-democracy-asia-and-beyond.

<sup>66</sup> "Hong Kong Protests Explained," Amnesty International, <https://www.amnesty.org/en/latest/news/2019/09/hong-kong-protests-explained/>

<sup>67</sup> Roantree, Anne Marie, and Vimvam Tong. "Hong Kong Leader Says Protesters in Latest Clashes Can Be Called 'Rioters'," *Reuters*, July 15, 2019, <https://www.reuters.com/article/us-hongkong-extradition-lam/hong-kong-leader-says-protesters-in-latest-clashes-can-be-called-rioters-idUSKCN1UA0ME>

<sup>68</sup> "Hong Kong Protesters Occupy Legislative Chamber after Smashing Windows, Vandalising Corridors," *Hong Kong Free Press*, July 1, 2019, <https://www.hongkongfp.com/2019/07/01/breaking-hong-kong-protesters-storm-legislature-breaking-glass-doors-prying-gates-open/>

<sup>69</sup> Kuo, Lily, and Verna Yu. "Police and Protesters Clash amid Huge Democracy March in Hong Kong," *The Guardian*, July 21, 2019, <https://www.theguardian.com/world/2019/jul/21/hong-kong-mass-china-extradition-bill-demonstrations-protestors>

<sup>70</sup> Ramzy, Austin. "Mob Attack at Hong Kong Train Station Heightens Seething Tensions in City," *The New York Times*, July 22, 2019,

Many believed that the assailants had been called out to send a message to protesters that continued participation in the pro-democratic movement would come at a cost.<sup>71</sup> Legislative Councilor Lam Cheuk-ting, who attempted to stop the Yuen Long attacks, suffered a bone fracture.<sup>72</sup> Lam believes the Yuen Long attacks were a key turning point against the police in the battle for public support. He has continually called for a formal investigation of the incident by Hong Kong's Independent Commission Against Corruption (ICAC).<sup>73</sup>



*Assailants dressed in white entered the Yuen Long MTR station and attacked the public with sticks and other weapons on July 21, 2019 Credit: Initium Media.<sup>74</sup>*

<https://www.nytimes.com/2019/07/22/world/asia/hong-kong-protest-mob-attack-yuen-long.html>

<sup>71</sup> Ramzy, Austin. "Mob Attack at Hong Kong Train Station Heightens Seething Tensions in City," *The New York Times*, July 22, 2019, <https://www.nytimes.com/2019/07/22/world/asia/hong-kong-protest-mob-attack-yuen-long.html>

<sup>72</sup> Interview with Legislator Lam Cheuk-ting, *supra* note 137.

<sup>73</sup> Lok-Kei, Sum. "Hong Kong Police 'under Investigation' over Yuen Long Attacks," *South China Morning Post*, July 30, 2019, <https://www.scmp.com/news/hong-kong/politics/article/3020635/hong-kong-police-officers-call-citys-no-2-clarify-apology>

<sup>74</sup> Image use authorized by Initium Media. [https://theinitium.com/article/20190723-hongkong-yuenlong-incident-timeline/?fbclid=IwAR3hdYMcujV1TeEKKH\\_dKXG84FE9QRvIE1DK0SSSt3Eray8D0NCAzfzceiQ](https://theinitium.com/article/20190723-hongkong-yuenlong-incident-timeline/?fbclid=IwAR3hdYMcujV1TeEKKH_dKXG84FE9QRvIE1DK0SSSt3Eray8D0NCAzfzceiQ)



Another critical turning point came in November, when police launched a siege on university campuses.<sup>75</sup> The Chinese University of Hong Kong and Hong Kong Polytechnic University were among the hardest hit, as protesters, including both students and non-students, used the strategic location of both universities to cripple key transportation links nearby.<sup>76</sup> Following police encirclement, a pitched battle ensued, one that featured perhaps some of the most significant violence of the entire year.

### *District Council Elections*

After months of disruption, some began to wonder whether Hong Kong people still supported the pro-democracy protest movement, or whether the disruptions and the economic costs were becoming too much of a liability.

The November 24 District Council elections, therefore, became a key barometer of public support for the ongoing protests. Beijing encouraged the election to go forward, banking on a pro-establishment victory, which would send a message of public opposition to the democracy protests.<sup>77</sup> “Vote to end the violence,” key pro-Beijing media outlets urged, arguing that a vote for pro-establishment candidates was a vote for a return to normalcy.<sup>78</sup>

The pro-establishment candidates had traditionally done well in District Council elections, thanks in part to their strong networks and resources that mobilized voters on election day. With limited resources, the pan-democratic camp had historically neglected District Council elections, and as a result had never fared well.

In 2019 however, a strong and unambiguous signal was sent. The people of Hong Kong voted overwhelmingly for pro-democratic candidates, electing them to 392 out of the 452 possible seats, and giving them control of 17 of the 18 District Councils.<sup>79</sup> Voter turnout increased to 71 percent from 47 percent in the 2015 elections.<sup>80</sup> In the most peaceful form of protest possible, 2.9 million Hong Kong voters spoke clearly on the importance of democracy for maintaining genuine autonomy and the rule of law.

---

*Citizens queue up to cast their vote for the District Council Ordinary Election in Shatin, Hong Kong. On 24 November, 4.13 million registered electors cast their votes for the 2019 District Council Ordinary Election.*<sup>81</sup>



---

<sup>75</sup> Leung, Jasmine, and Yuliya Talmazan. “Hong Kong Police Lay Siege to University Where Protesters Are Trapped,” *NBC News*, November 18, 2019, <https://www.nbcnews.com/news/world/hong-kong-police-lay-siege-university-where-protesters-are-trapped-n1084716>

<sup>76</sup> Ting, Victor, Simone McCarthy, and Kinling Lo. “Hong Kong Residents Turn out in Force to Clear Protesters’ Roadblocks,” *South China Morning Post*, November 17, 2019, <https://www.scmp.com/news/hong-kong/politics/article/3038072/hong-kong-protests-residents-turn-out-force-clear-roads>

<sup>77</sup> Hernández, Javier C. “Beijing Was Confident Its Hong Kong Allies Would Win. After the Election, It Went Silent,” *The New York Times*, November 26, 2019, <https://www.nytimes.com/2019/11/26/world/asia/china-hong-kong-protests-election.html>

<sup>78</sup> *ibid.*

<sup>79</sup> “2019 District Councils Election - Election Results,” Hong Kong Registration and Electoral Office, [https://www.elections.gov.hk/dc2019/eng/results\\_hk.html](https://www.elections.gov.hk/dc2019/eng/results_hk.html)

<sup>80</sup> “2019 District Councils Election - Voter Turnout Rate,” Hong Kong Registration and Electoral Office, <https://www.elections.gov.hk/dc2019/eng/turnout.html>

<sup>81</sup> Jerome Favre/EPA-EFE/Shutterstock



In the aftermath of the historic District Council win, both pan-democratic politicians and protest movement civic groups are taking a new look at electoral possibilities. Their aim is to identify seats in the Legislative Council, especially in functional constituencies long controlled by pro-Beijing parties, that may be competitive in the newly energized political environment. Voters will head to the polls again in September 2020, giving the pan-democratic camp another opportunity to translate the energy unleashed by the pro-democracy movement into greater representation in Hong Kong's formal political institutions.

### *Excessive Use of Force by the Police*

A major driving force sustaining the Hong Kong protests has been the alleged excessive use of force by the Hong Kong police in trying to contain the protests. Daily press and social media images and videos of alleged police abuse have angered the public in Hong Kong, and has also sparked international condemnation.<sup>82</sup> The embrace of stepped-up enforcement tactics has left the reputation of the police deeply damaged: starting with a 78 percent approval rating at the start of the Carrie Lam administration, the police now face a similar level of disapproval.<sup>83</sup>

Instead of engaging directly with the protest movement, the Hong Kong government and Beijing have turned to the police, asking them to handle what is in essence a political problem, one that law enforcement is not well placed to address. Some observers argue that the Hong Kong government believed that the removal of a certain number of "ringleaders" would, eventually, end the protest movement.<sup>84</sup> The events of the past several months have proved this analysis to be flawed. Continued reliance on the police to "solve" the problem will stiffen the resolve of protestors, and encourage greater support for the protests.

The list of allegations against the police is long and troubling.<sup>85</sup> The use of tear gas, over 16,000 canisters fired as of this writing, has been so pervasive that it has reportedly seeped into nearby residences and businesses, which poses a significant public health risk.<sup>86</sup>

<sup>82</sup> "Hong Kong Protesters Direct Anger at Police as Violence Flares," *The Wall Street Journal*, November 11, 2019, <https://www.wsj.com/articles/hong-kong-protesters-direct-anger-at-police-as-violence-flares-11573499473>. Hong Kong: Arbitrary arrest, brutal beatings and torture in police detention revealed," *Amnesty International*, September 19, 2019, <https://www.amnesty.org/en/latest/news/2019/09/hong-kong-arbitrary-arrests-brutal-beatings-and-torture-in-police-detention-revealed/>

<sup>83</sup> Interview with HKU Professor Puja Kapai, December 5, 2019 (reporting on the approval rating at the start of the Lam administration); Lam, Jeffie. "Police reputation in tatters across the political divide according to online survey of Hong Kong voters," *South China Morning Post*, December 21, 2019, <https://www.scmp.com/news/hong-kong/politics/article/3043030/police-reputation-tatters-across-political-divide-according>; Kapai, Puja. "Future Directions in Hong Kong's Governance," University of Hong Kong Centre for Comparative and Public Law, April 2018, [http://www.law.hku.hk/ccpl/wp-content/uploads/2018/10/\[Core%20findings\]%20\[English\]%20Future%20Directions%20in%20Hong%20Kong's%20Governance.pdf](http://www.law.hku.hk/ccpl/wp-content/uploads/2018/10/[Core%20findings]%20[English]%20Future%20Directions%20in%20Hong%20Kong's%20Governance.pdf); "People's Satisfaction with the Performance of the Hong Kong Police Force - per Poll (18/6/2019)," University of Hong Kong Public Opinion Programme, November 21, 2019, [https://www.hkupop.hku.hk/pori\\_table\\_chart/DisciplinaryForces/rating/police\\_rating/X001\\_rating\\_chart.html](https://www.hkupop.hku.hk/pori_table_chart/DisciplinaryForces/rating/police_rating/X001_rating_chart.html).

<sup>84</sup> Author interviews, Hong Kong, December 2019.

<sup>85</sup> A January 2020 report by Hong Kong's Progressive Scholars Group outlines allegations of international human rights violations by the Hong Kong police over 2019 in great detail; see "Silencing Millions: Unchecked Violations of Internationally Recognized Human Rights by the Hong Kong Police," Progressive Scholars Group Report, January 29, 2020, <https://www.docdroid.net/0EA2Bhy/silencingmillions-text-final.pdf>

<sup>86</sup> As of November 27, 2019 there had been 10,000 rounds of tear gas reportedly fired, as well as 4800 rubber bullets and 19 live rounds; Prasso, Sheridan. "Millions in Hong Kong Have Been Exposed to Tear Gas Since June," *Bloomberg BusinessWeek*, November 5, 2019, <https://www.bloomberg.com/news/articles/2019-11-05/up-to-88-of-hong-kong-population-exposed-to-tear-gas-since-june>; "Hong Kong: counting the health cost," *The Lancet*, December 7, 2019, [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(19\)33049-1/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(19)33049-1/fulltext); "Over 2,000 tear gas canisters fired in a single day," *Radio Television Hong Kong*, November 27, 2019, <https://news.rthk.hk/rthk/en/component/k2/1494810-20191127.htm>



*Hong Kong police use pepper spray on unarmed protesters and press during a demonstration. Credit: Studio Incendo<sup>87</sup>*

In some cases, individual police officers have been filmed using excessive force to apprehend protesters who are already held down, ramming their heads into the pavement.<sup>88</sup> In other cases, police officers have been filmed using their batons to strike protesters who have already been subdued.<sup>89</sup>

In a small but still concerning number of cases, police officers have fired live rounds at protesters. Some protesters have been shot, although none have been killed. One activist group has documented as many as nineteen separate incidents of live round firings by police officers as of January 2020; in an unknown number of cases, police officers have pointed their weapons at protesters, threatening to shoot.<sup>90</sup>

Some reporting has suggested that the police have taken steps to protect individual officers from being held accountable under police procedural guidelines.<sup>91</sup> For example, in the run-up to planned protests on October 1, China's National Day, the Hong Kong police relaxed internal guidelines on the use of force to grant more discretion to officers on the ground, striking a reference to accountability for police actions that might cross the line.<sup>92</sup>

Given these and other actions by the police, it is perhaps unsurprising that an independent investigation into police violence is among the key demands being put forward by the protest movement. Public support for such

<sup>87</sup> Image by Studio Incendo is licensed by CC BY 2.0 <https://www.flickr.com/photos/studiokanu/49311247158/in/photostream/>

<sup>88</sup> Leung, Hillary. "Amnesty International Says Hong Kong Police Using 'Reckless and Indiscriminate Tactics,'" *Time Magazine*, September 20, 2019, <https://time.com/5681906/amnesty-hong-kong-police-protests/>

<sup>89</sup> "New Evidence of Shocking Police Abuses against Hong Kong Protesters," Amnesty International, September 19, 2019, <https://www.amnesty.org/en/latest/news/2019/09/hong-kong-arbitrary-arrests-brutal-beatings-and-torture-in-police-detention-revealed/>

<sup>90</sup> "Silencing Millions: Unchecked Violations of Internationally Recognized Human Rights by the Hong Kong Police Force," Progressive Scholars Group, January 2020, pp. 45-51.

<sup>91</sup> Mahtani, Shibani, Timothy McLaughlin, Tiffany Liang and Ryan Ho Kilpatrick. "In Hong Kong crackdown the police repeatedly broke their own rules—and faced now consequence," *The Washington Post*, December 24, 2019, <https://www.washingtonpost.com/graphics/2019/world/hong-kong-protests-excessive-force/>

<sup>92</sup> Jim, Claire. "Hong Kong police change guidelines on use of force in protest: documents," *Reuters*, October 2, 2019, <https://www.reuters.com/article/us-hongkong-protests-police/hong-kong-police-change-guidelines-on-use-of-force-in-protests-documents-idUSKBN1WI0TX>

a move is strong. According to public opinion polls, more than 80 percent of Hong Kong citizens support an independent investigation.<sup>93</sup> At the same time, prominent civil society groups and both pan-democratic and pro-establishment politicians have also called for an independent investigation. The government claims that the proper body to investigate police abuse is the Independent Police Complaints Council (IPCC), but that internal police body has been criticized by its own panel of experts—some of whom have since resigned—as being insufficiently independent.<sup>94</sup>

The Hong Kong government's unwillingness to move forward with the formation of an independent body to investigate police abuse is perplexing, especially given the ample evidence that has emerged that seems to document acts of police misconduct.

## *Criminal Justice System*

Both criminal defense lawyers and protesters themselves have flagged violations of basic due process rights, abuse in detention, and the use of criminal charges to intimidate protesters. Over 6,000 protesters were arrested between June and December 2019,<sup>95</sup> some of whom have been charged with rioting, an offense punishable by up to ten years in prison.<sup>96</sup> An effort in December 2019 by pan-democratic Legislative Councilors to introduce amendments to Hong Kong's criminal code that would prevent overbroad application of the rioting offence to protesters who should properly be charged, if at all, with a lesser offence, has not yet won the support of the pro-establishment majority in LegCo.<sup>97</sup>

According to lawyers and activists interviewed by GCAL and NDI, human rights concerns have emerged at every stage of the criminal justice process. First, several protesters have raised credible claims of abuse in detention, ranging from verbal harassment to outright physical abuse.<sup>98</sup> One defense lawyer estimates that as many as 75 to 80 percent of the clients that he and other defense lawyers represent showed some signs of physical abuse.<sup>99</sup>

A second problem frequently highlighted by lawyers handling protester cases are extensive efforts by police officers to block timely access to clients, which may be part of an effort to convince some detainees to make or sign statements that are against their interest. Defense lawyers told us that, in some cases, the threat of a formal complaint was needed to secure access to clients.<sup>100</sup>

<sup>93</sup> Lee, Francis. "Opinion: What Hong Kongers Really Think of the Protesters and the Police," *The Independent*, October 16, 2019, <https://www.independent.co.uk/voices/hong-kong-protests-police-violence-public-opinion-polling-support-a9158061.html>; "有關「逃犯條例修訂草案」意見調查 調查結果 (第五輪)," Centre for Communications and Public Opinion Survey, October 2019, [http://video3.mingpao.com/inews/201910/20191015\\_mpsurvey.pdf](http://video3.mingpao.com/inews/201910/20191015_mpsurvey.pdf)

<sup>94</sup> Schmidt, Blake. "Hong Kong Watchdog Panel Raises Doubts Over Police Inquiry," *Bloomberg*, November 10, 2019, <https://www.bloomberg.com/news/articles/2019-11-10/hong-kong-watchdog-panel-raises-doubts-over-lam-s-police-inquiry>

<sup>95</sup> This figure was reported by the Security Bureau to the Legislative Council; "Over 2,000 tear gas canisters fired in a single day," *Radio Television Hong Kong*, November 27, 2019.

<sup>96</sup> While a total figure has not yet been reported, media reports have suggested that a few dozen protesters currently face rioting charges; Mahtani, Shibani and Anna Kam. "Dozens of Hong Kong protesters appear in court on riot charges," *The Washington Post*, July 31, 2019, [https://www.washingtonpost.com/world/dozens-of-hong-kong-protesters-appear-in-court-to-face-riot-charges/2019/07/31/56c9d4f6-b334-11e9-acc8-1d847bacca73\\_story.html](https://www.washingtonpost.com/world/dozens-of-hong-kong-protesters-appear-in-court-to-face-riot-charges/2019/07/31/56c9d4f6-b334-11e9-acc8-1d847bacca73_story.html)

<sup>97</sup> Lam, Jeffie. "Hong Kong protests: opposition lawmakers Eddie Chu and Au Nok-hin launch bid to reform 'draconian and out of date' Public Order Ordinance," *South China Morning Post*, December 2, 2019, <https://www.scmp.com/news/hong-kong/politics/article/3040266/hong-kong-protests-opposition-lawmakers-eddie-chu-and-au>

<sup>98</sup> Author interviews, Hong Kong, December 2019.

<sup>99</sup> Interview with barrister Randy Shek, December 9, 2019. Randy Shek notes that on the night of the siege of Hong Kong Polytechnic University the hotline received over 1,000 calls.

<sup>100</sup> Author interviews, Hong Kong, December 2019. See also Wong Brian, and Chris Lau. "Barristers Challenge Police Chief over Access to Clients Arrested amid Protests," *South China Morning Post*, September 18, 2019, <https://www.scmp.com/news/hong-kong/law>



Finally, many criminal defense lawyers we spoke with raised concerns about efforts by prosecutors to file escalated charges, beyond the facts any individual case might bear. As one senior barrister put it, in the current highly politicized environment, a mere breach of peace could be escalated into a rioting charge.<sup>101</sup> Many in Hong Kong worry that the prosecutor's office is pursuing heavier charges as a means to send a message to protesters.<sup>102</sup>

The soaring number of arrests also poses problems for the Hong Kong judicial system, which is ill-equipped to handle the increasing caseload. Indeed, just as the criminal courts' docket is exploding, it faces a staffing shortfall, one that is unlikely to be rectified anytime soon. The fact that the court system cannot handle the growing number of prosecutions is yet another reason why efforts to de-escalate the prosecutorial war on protesters makes sense. For those cases in which charges are relatively light or in which the evidentiary record is weak, an expedited decision to decline prosecution could serve as a first step in a broader move toward an amnesty for most protesters.<sup>103</sup>

### *Beijing's Strategy: No Negotiation, No Compromise*

Overall, Beijing has adopted a four-pronged strategy: take control of the crisis through increased oversight of the Hong Kong government, but avoid direct action that may be seen as unduly provocative; adopt an overall wait-and-see approach, which includes direct orders to the Hong Kong government to refrain from negotiation and compromise; increase the costs to the protesters themselves, as a means of deterring continued participation; and issue regular threats to protesters that are meant to intimidate.

First, Beijing has taken a very hands-on approach to the crisis, directing key elements of the Hong Kong government's response through regular meetings with senior government officials. Chief Executive Lam told colleagues in Hong Kong that the "political room for maneuvering" that she has been given by Beijing is "very, very, very limited."<sup>104</sup> Central government officials have also refused to allow Lam to resign, presumably fearing that her resignation would be seen as a concession to the protest movement.<sup>105</sup>

Many of those the delegation met with in Hong Kong believe Beijing has decided to manage the crisis *through* the Hong Kong government, rather than acting directly to end the protests. The central government has refrained from deploying People's Liberation Army troops to Hong Kong to quell the protests, for example. Beijing has also, at least up to this point, avoided other key controversial steps, including the direct application of mainland national security laws to Hong Kong, or issuing a direct order to the Hong Kong government to pass its own national security legislation under Article 23 of the Basic Law.

The second core element of Beijing's approach to the protests has been its wait-and-see attitude. As the protests have continued month after month, Beijing has instructed the Hong Kong government, including Chief

---

and-crime/article/3027842/hong-kong-barristers-challenge-police-chief-stephen-lo

<sup>101</sup> Interview with Philip Dykes, Hong Kong, December 2019.

<sup>102</sup> Author interviews, Hong Kong, December 2019.

<sup>103</sup> Dziedzic, Anna and Julius Yam. "Amnesties in Hong Kong: Preliminary Discussion Paper," Centre for Comparative and Public Law, Faculty of Law, Hong Kong University, [https://www.law.hku.hk/ccpl/wp-content/uploads/2019/12/CCPL%20Amnesty%20-%20Discussion%20Paper%20\(English\).pdf](https://www.law.hku.hk/ccpl/wp-content/uploads/2019/12/CCPL%20Amnesty%20-%20Discussion%20Paper%20(English).pdf)

<sup>104</sup> The exact timing of the Hong Kong government's request to offer concessions to the protests, and Beijing's response, is not known; "Exclusive: 'If I had a choice, the first thing is to quit' – Hong Kong leader Carrie Lam – transcript," *Reuters*, September 3, 2019, <https://www.reuters.com/article/us-hongkong-protests-carrielam-transcrip/exclusive-if-i-have-a-choice-the-first-thing-is-to-quit-hong-kong-leader-carrie-lam-transcript-idUSKCN1VOOKK>

<sup>105</sup> Sender, Henry, Sue-Lin Wong, and Nicolle Liu. "Hong Kong chief Carrie Lam offered to step down over protests," *Financial Times*, July 14, 2019, <https://www.ft.com/content/e646dbba-a3e4-11e9-974c-ad1c6ab5efd1>



Executive Lam herself, to refrain from meaningful negotiations, and to refrain from offering any compromises that could be seen as rewarding, from Beijing's point of view, the protest movement.

In the weeks following the June 2019 protests, the Central Government turned down Chief Executive Lam's proposal that the Hong Kong government offer to take some steps to respond to protester demands, including by formally withdrawing the extradition bill and by agreeing to a commission of inquiry on police use of force.<sup>106</sup> Instead, Beijing forbade Lam from offering any concessions to the protesters' demands, effectively preventing her administration from engaging in any sort of meaningful dialogue. By refusing to allow negotiations, Beijing is hoping to wait out the protesters: the CCP leadership expects that, with the passage of time, fewer and fewer citizens will be willing to take to the streets, and the protests will die out.

Third, Beijing has encouraged the Hong Kong government to take steps to raise the costs of participation in the protest movement, primarily through increased police use of force, and through threats of increased criminal penalties. In November 2019, for example, President Xi Jinping voiced his approval of the use of aggressive policing tactics as a key tool for ending the protests, and noted that the most urgent priority was to end the violence and restore law and order.<sup>107</sup> His remarks were taken as a signal of Beijing's support for a policing solution to the protests, one that relies on deterrence rather than negotiation.<sup>108</sup> The most recent example of this strategy was the February 2020 arrests of three prominent movement figures for their participation in a protest in August 2019.<sup>109</sup>



*Chinese President Xi Jinping (r) speaks with Hong Kong Chief Executive Carrie Lam (l), during their meeting in Beijing, China. Uncredited<sup>110</sup>*

<sup>106</sup> As noted above, the extradition bill was eventually withdrawn, but Beijing has refused to budge on all other prongs of the democratic movement's five demands; Pomfret, James and Greg Torode. "Exclusive: Amid crisis, China rejected Hong Kong plan to appease protesters," *Reuters*, August 30, 2019, <https://www.reuters.com/article/us-hongkong-protests-china-exclusive/exclusive-amid-crisis-china-rejected-hong-kong-plan-to-appease-protesters-sources-idUSKCN1VK0H6>

<sup>107</sup> Zhou, Laura. "Xi Jinping again backs Hong Kong police use of force in stopping unrest," *South China Morning Post*, November 14, 2019, <https://www.scmp.com/news/china/politics/article/3037811/xi-jinping-again-backs-hong-kong-police-use-force-stopping>

<sup>108</sup> Wong, Chun Han Wong. "Beijing's New Hong Kong Protest Strategy: Let 'Em Fight It Out," *Wall Street Journal*, November 21, 2019, <https://www.wsj.com/articles/beijings-hong-kong-protest-strategy-let-em-fight-it-out-11574332204>

<sup>109</sup> Kwok, Donny. "Hong Kong police arrest media tycoon Jimmy Lai on illegal assembly charges," *Reuters*, February 27, 2020, <https://www.reuters.com/article/us-hongkong-protests-arrests/hong-kong-media-tycoon-jimmy-lai-arrested-on-illegal-assembly-charges-idUSKCN20M08V?il=0>

<sup>110</sup> Credit Uncredited/AP/Shutterstock.

The final prong of Beijing's approach has been repeated rhetorical attacks on the protest movement and efforts to blame the unrest in Hong Kong on malevolent "hostile foreign forces."<sup>111</sup> On July 29, 2019, for example, State Council spokesman Yang Guang labelled the protests "evil and criminal acts committed by radical elements," and reiterated Beijing's support for Chief Executive Lam.<sup>112</sup> In August, after protesters disrupted service at Hong Kong's international airport, Mainland officials warned that "signs of terrorism" were beginning to emerge. Since then, Beijing has kept up its harsh tone, which most have viewed as a clear signal that negotiation and compromise remain off the table.

The above analysis of Beijing's strategy makes one thing clear: more than a year after the push to end the extradition bill began and ten months into a mass street campaign, Beijing's approach is not working. There is no end in sight to the protest movement, and the costs of waiting for it to die out or be intimidated into silence continue to mount.

### *The Protest Movement – Unity Amid Diversity*

The protests in Hong Kong encompass several sub-movements, each with its own view of the events of 2019 and each with its own take on strategy and tactics. Mainstream pan-democratic politicians have worked closely with various civil society organizations involved with the protests; those groups in turn have deep contacts with street activists, many of whom form the backbone of protest actions week after week and month after month.

The Civil Human Rights Front has been at the forefront of the protests since the beginning, coordinating and organizing protests, applying for protest permits, and directing protesters along approved routes on protest days.

As the protests have continued, other groups have risen to prominence as well. The Hong Kong International Affairs Delegation (HKIAD), for example, became more and more prominent as more young people took part in the protests, and as some younger protesters engaged in more radical actions, such as the storming of the Legislative Council building on July 1. An umbrella organization for all twelve university student unions in Hong Kong, HKIAD tended to voice stronger "localist" views on the protests, at times expressing skepticism that any satisfactory deal could be worked out with the Hong Kong government and with Beijing.

Still, the movement is unified by its overarching goals, including the core objective of democratic reform, even if there are disagreements within the movement as to what an acceptable pathway to reform looks like. At the same time, continued support for the five demands has maintained solidarity across the movement.

As outlined above, though the vast majority of protesters have been peaceful in their participation, some have embraced vandalism and even violence as, in their view, a legitimate tool of protest. In our conversations in Hong Kong, it became clear that violence as a protest tactic is widely debated within the movement, encompassing both strategic and moral concerns. Many moderate pro-democratic groups and individuals have quietly advocated for a renewed embrace of non-violence, even as they have been reluctant to criticize violent acts in public. The activists with whom we spoke made clear that they viewed public criticism of violent acts by pro-democratic protesters as counterproductive. Public criticism would only undermine the democratic movement's solidarity, and would likely drive protesters engaging in violent acts further away from mainstream activists, making it even more likely that they would engage in violence.

---

<sup>111</sup> Myers, Steven Lee. "In Hong Kong Protests, China Angrily Connects Dots Back to U.S." *The New York Times*, September 5, 2019, <https://www.nytimes.com/2019/09/05/world/asia/china-hong-kong-protests.html>

<sup>112</sup> Christian, Siddarth Shrikanth, and Nicolle Liu. "Beijing cranks up level of condemnation of Hong Kong protests," *Financial Times*, July 29, 2019, <https://www.ft.com/content/4d0b2346-b1ce-11e9-8cb2-799a3a8cf37b>



Some protest organizers have argued that violence by pro-democratic protesters largely comes in response to aggressive actions by the police. In other words, if the police are restrained, protesters themselves will largely eschew violence. That theory was tested on December 8, 2019, when an estimated 800,000 protesters took to the streets in the first officially approved protest on Hong Kong Island since mid-August. As it happened, the police remained relatively restrained in their use of force, and protesters followed suit, giving at least some credence to the argument that violence by protesters is often reactive, rather than a conscious strategy.



Hong Kong protesters sing "Glory to Hong Kong" during a sit-in at New Town Plaza on September 12, 2019. Credit: Studio Incendo.<sup>113</sup>

Both NDI and GCAL believe that non-violence is a key principle, one that carries with it key strategic benefits, as well as moral ones. Leading political scientists have found that non-violence in social movements has proven more strategically successful than the use of violence.<sup>114</sup>

Violent protest, among other things, communicates the depth of frustration and even rage that the people of Hong Kong feel. This frustration is driving both the protesters' peaceful demonstrations and the acts of violence by a few more radical protesters. Despite the ongoing debates over the use of violence and other questions, the movement as a whole seems largely unified. Indeed, in the wake of the November 2019 District Council elections, pro-democracy activists are both energized, and also thinking creatively about new avenues through which to pursue their democratic reform agenda.

<sup>113</sup> Image by Studio Incendo is licensed by CC BY 2.0. <https://www.flickr.com/photos/studiokanu/48722195156/in/album-72157710813362767/>

<sup>114</sup> Nicholasen, Michelle. "Why Nonviolent Resistance Beats Violent Force in Effecting Social, Political Change," Harvard Gazette, February 4, 2019, <https://news.harvard.edu/gazette/story/2019/02/why-nonviolent-resistance-beats-violent-force-in-effecting-social-political-change/>

## V. Recommendations

### To the government in Beijing:

- Reaffirm publicly the CCP's commitment to Hong Kong's high degree of autonomy under the One Country, Two Systems framework established in the Basic Law.
- Acknowledge the legitimate, organic nature of the Hong Kong protest movement as representative of the Hong Kong people's concerns.
- Refrain from any further steps that would damage Hong Kong's autonomy, including interpretations of the Hong Kong Basic Law that violate One Country, Two Systems and undermine Hong Kong's prized judicial system.
- Acknowledge that any long-term solution to the crisis will include universal suffrage for the chief executive and Legislative Council as promised in the Basic Law.
- Create new channels of communication with Hong Kong voices from across the political spectrum, including young people and members of the pan-democratic camp.

### To the Hong Kong government:

- Commit to restarting the political reform process toward universal suffrage for the 2022 chief executive election, and for the 2024 Legislative Council elections.
- Establish an independent commission to objectively investigate widespread and credible allegations of excessive use of force by the police. Any such commission should be structured in an objective way to win public trust in Hong Kong.
- Announce an immediate and public review of police use of force guidelines.
- Reassure the public that police who engage in excessive use of force will be appropriately disciplined.
- Commit to a review of key areas of Hong Kong law that may need to be updated so as to better protect human rights, beginning with a review of the criminal ordinances on illegal assembly and rioting as well as the Emergency Regulations Ordinance.

### To pro-democracy movement activists:

- Build broad public support through non-violent protest and civil disobedience. Non-violence methods should be pursued as the more strategic and moral option, especially since research shows that violent protest is rarely successful and often counterproductive strategically. The pro-democracy movement should be fought in the realm of ideas and in the court of public opinion.



- Advocate for Hong Kong's democracy rooted in the promises made under the One Country, Two Systems framework, Basic Law, and the Joint Declaration -- these were promises made by the PRC Government and registered as an international treaty at the United Nations.
- Continue to tell the story of Hong Kong's democracy challenges to governments, parliaments, civil society, and the private sector around the world.

### To the United States government:

- Continue to privately and publicly raise concerns about democracy, human rights, and the rule of law in Hong Kong with both government officials in Beijing and Hong Kong.
- Respond immediately to any efforts by Beijing to further restrict Hong Kong's basic freedoms and its high degree of autonomy.
- Coordinate with the United Kingdom and the European Union to closely monitor the situation in Hong Kong and encourage a response if and when events on the ground there call for a strong response from the international community.
- Continue to monitor the situation in Hong Kong and utilize all tools of the Hong Kong Human Rights and Democracy Act to hold accountable those who take steps to weaken the rule of law in Hong Kong.

### To all governments and organizations concerned about Hong Kong's autonomy and the rule of law:

- Press Beijing to live up to its treaty obligations under the Joint Declaration, which includes respect for Hong Kong's autonomy under the One Country, Two Systems model.
- Actively monitor the situation in Hong Kong and raise concerns about human rights and rule of law with central government officials in Beijing and with Hong Kong government officials.
- Raise concerns about human rights in Hong Kong at key international fora, including U.N. human rights mechanisms.
- Support international civil society organizations to engage directly with counterparts in Hong Kong to foster a legal and political reform and human rights monitoring agenda.

## VI. Conclusion

The 2019 extradition bill protests have captured the attention of the world, showcasing the resolve of Hong Kong people in their push for democratic reform. Protesters have braved escalating use of force by the police, the threat of criminal prosecution, rhetorical threats from Beijing, and even attacks by unidentified assailants. They have successfully turned what began as a fight to end a deeply flawed legislative bill into a sustained pro-democratic movement that will soon mark its one-year anniversary.

And yet, as this report has shown, the protest movement is not merely the product of the Hong Kong government's ham-fisted efforts to reform Hong Kong's extradition law. Instead, the protest movement is the product of years of pent-up frustration over foot-dragging by Beijing on democratic reforms and concern over steps taken by the Hong Kong government and the CCP leadership to limit Hong Kong's treasured autonomy.

The fight over democratization in Hong Kong has reached a stalemate: the protest movement has succeeded in maintaining its cohesion and its momentum, but it has not been able to bring about the negotiations that would lead to concrete progress on some or all of its demands. For its part, Beijing has managed to avoid any meaningful concessions to the protest movement, but only at a very high cost, both to the Hong Kong economy and to its own reputation among the people of Hong Kong and within the international community.<sup>115</sup>

The events of the past year have shown that Hong Kong may be entering into an escalating cycle of political instability and social unrest. Pro-democracy protests lead Beijing to take steps to further tighten control, after which the Hong Kong government loses credibility among Hong Kong people. Eventually, the Hong Kong government – whether at Beijing's bidding or of its own volition – takes action that seriously undercuts Hong Kong's autonomy and the rule of law. That action – along with pent-up frustration – once again leads to an explosion of public outrage and protest. Protesters quickly broaden their demands to include democratic reform, and the cycle begins anew. It will take political will to break the cycle. To begin, Beijing must allow the Hong Kong government to engage in sincere and meaningful dialogue with the pro-democracy movement. In response, the protest movement should select representatives to negotiate with the Hong Kong government. It is yet to be seen whether this political will exists.

Beijing has multiple reasons to rethink its strategy for dealing with the current crisis and to change course. We have argued above that Beijing's approach is not working and that it should immediately allow the Hong Kong government to initiate dialogue and negotiations with the protest movement to end the crisis. Doing so is in Beijing's interest for the simple reason that the current political and social instability could do lasting damage to the One Country, Two Systems framework, and to Hong Kong itself.

Undoubtedly, negotiation and compromise would require a change in strategy for the Communist Party leadership, even if the negotiations are carried out by the Hong Kong government. Since the 1997 handover, Beijing seems to have grown used to dictating a response to events, rather than engaging directly with the people of Hong Kong as citizens. Such a radical shift in approach – from rigid inflexibility to openness and compromise – will be hard for Beijing. But the potential benefits to be gained from taking such steps – in terms of social and economic stability, political good will, and improved regional and international reputation – are many. Beijing should embrace that new direction, immediately.

---

<sup>115</sup> Esfandiari, Sahar. "Hong Kong to Enter Recession after Protests Destroyed Retailers and Brought the City's Tourist Industry to Its Knees." *Business Insider*. Accessed February 13, 2020. Hong Kong Public Opinion Research Institute. "市民對一國兩制的信心 People's Confidence in 'One Country, Two Systems.'" PORI 香港民意研究所. <https://www.pori.hk/pop-poll/cross-strait-relation/k006>. Hong Kong Public Opinion Research Institute. "市民對北京中央政府的信任程度 People's Trust in the Beijing Central Government." PORI 香港民意研究所. <https://www.pori.hk/pop-poll/cross-strait-relation/k002>. Guardian Staff. "Global Backing for Protest Rights as Trump Hopes Hong Kong Can 'Work It Out.'" *The Guardian*, June 13, 2019, <https://www.theguardian.com/world/2019/jun/13/global-reaction-hong-kong-protest-rights-trump-may>.



