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Hong Kong: Key Issues in 2021

The Hong Kong Special Administrative Region (HKSAR, or Hong Kong) is a city located off the southern coast of Guangdong Province, People's Republic of China (PRC or China). More than 90% of Hong Kong's population is ethnically Chinese. The first language of the vast majority is Cantonese, a variety of Chinese different from what is spoken in most of the PRC.

Under the provisions of a 1984 international treaty known as the "Joint Declaration," sovereignty over Hong Kong transferred from the United Kingdom to the PRC on July 1, 1997. In the Joint Declaration, China pledged the former British colony "will enjoy a high degree of autonomy, except in foreign and defence affairs," and "will be vested with executive, legislative and independent judicial power, including that of final adjudication." China also promised that the "[r]ights and freedoms, including those of the person, of speech, of the press, of assembly, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief will be ensured by law."

The Joint Declaration also required that the PRC pass a Basic Law for the HKSAR that incorporates these commitments, and those commitments were to "remain unchanged for 50 years." On April 4, 1990, China's National People's Congress passed the "Basic Law of the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China" (Basic Law).

Congress and the Trump Administration have expressed their opposition to HKSAR and PRC government actions that appear to have violated those commitments, and have imposed visa and economic restrictions on individuals and entities they view as responsible for the erosion of Hong Kong's autonomy and the rights of Hong Kong residents. The PRC government responded by imposing restrictions on U.S. citizens it views as interfering in the internal affairs of the HKSAR and the PRC, contributing to social unrest, and threatening national security.

Key Events in 2020

The governments of the HKSAR and the PRC took several actions in 2020 that seemingly reduced the city's promised "high degree of autonomy," placed new restrictions on the rights of Hong Kong residents, and appear to be designed to suppress opposition to these actions.

National Security Law

On June 30, 2020, China's National People's Congress Standing Committee (NPCSC) drafted and approved a national security law (NSL) for the HKSAR, criminalizing the organization and perpetration of terrorist activities, as well as secession, subversion, and "collusion with a foreign

country or with external elements to endanger national security." The NPCSC and the HKSAR government have stated that the NSL was necessary to restore order following the large-scale protests of 2019. For more about the 2019 protests, see CRS In Focus IF11295, *Hong Kong's Protests of 2019*.

Hong Kong at a Glance

Population (2020): 7.5 million

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

Per Capita GDP (2019): HK\$381,714 (US\$48,938)

Life Expectancy (at birth, 2018): Men: 82.2 years;
Women: 88.1 years

Leadership: Chief Executive Carrie Lam Cheng Yuet-ngor

Source: Hong Kong Census and Statistics Department

The Hong Kong Police Force (HKPF) has arrested dozens of people for alleged NSL violations. At least four people have been formally charged under the NSL, including Jimmy Lai Chee-ying, owner and publisher of the pro-democracy newspaper, *Apple Daily*. The NSL, as written, applies to alleged violations committed by anyone, anywhere in the world, including in the United States. The maximum penalty for NSL violations is life in prison. For more about the NSL, see CRS Report R46473, *China's National Security Law for Hong Kong: Issues for Congress*.

Disqualification of Legislators

Hong Kong courts disqualified six members of the city's Legislative Council (Legco) in 2016 and 2017 after the HKSAR government challenged how they took their oaths of office. On November 11, 2020, the HKSAR government disqualified four members of Legco based on a decision by the NPCSC that established new qualifications to be a Legco member. The following day, 15 members of Legco's pro-democracy coalition submitted their resignations in opposition to the actions of the NPCSC and the HKSAR government. For more about the 2020 disqualifications, see CRS Insight IN11533, *Hong Kong Government Disqualifies Four Legislative Council Members*.

As a result of the disqualifications and resignations, Legco, which is supposed to have 70 members, now consists of 41 "pro-establishment" coalition members who generally support the HKSAR government, and 2 other unaffiliated members. For more about Legco, see CRS In Focus IF10500, *Hong Kong's Legislative Council (Legco)*.

Arrests and Imprisonment of Dissidents

The HKPF arrested more than 10,000 people for alleged crimes committed during the 2019 protests. More than 2,300 of those arrested have been officially charged in Hong Kong courts; more than 200 have been convicted,

including about 140 who pled guilty. In some cases, the accused have been remanded without bail. For example, Tam Tak-chi, chairman of People's Power, a pro-democracy political party, has been held pending trial since his arraignment in September 2020 for alleged violations of Hong Kong's pre-NSL sedition law. In other cases, the Hong Kong courts have dismissed charges because of a lack of credible evidence, prompting claims by protesters that the HKPF and the HKSAR Department of Justice are using their authority to suppress political opposition.

Coronavirus Disease 2019 (COVID-19) Outbreak

Hong Kong had fewer than 1,000 confirmed COVID-19 cases until early April 2020, due in part to the voluntary adoption of anti-contamination measures by Hong Kong residents and in part to the HKSAR government closing its borders and adopting other precautions. The relaxation of these preventive measures led to a rise in COVID-19 cases in July, and the re-imposition of restrictions. Pro-democracy advocates have accused the HKSAR government and the HKPF of using the COVID-19 pandemic as an excuse to prohibit protests and to postpone for a year Legco elections scheduled for September 6, 2020.

U.S. Policy

U.S. relations with Hong Kong are governed by the United States-Hong Kong Policy Act of 1992 (USHKPA; P.L. 102-383), which commits the United States to treating the HKSAR as separate from the rest of China in a variety of political, economic, trade, and other areas so long as the HKSAR remains "sufficiently autonomous." The act also states, "Support for democratization is a fundamental principle of United States foreign policy. As such, it naturally applies to United States policy toward Hong Kong. This will remain equally true after June 30, 1997."

New Legislation

The 116th Congress passed three Hong Kong-related laws. The Hong Kong Human Rights and Democracy Act of 2019 (HKHRDA; P.L. 116-76) amended the USHKPA to require the Secretary of State provide an annual certification to Congress that Hong Kong remains sufficiently autonomous to warrant separate treatment from China, and to protect the ability of Hong Kong protesters to obtain U.S. visas. The HKHRDA also requires that the President impose sanctions on foreign persons "undermining fundamental freedoms and autonomy in Hong Kong," and safeguard U.S. citizens and others from rendition to China. P.L. 116-77 prohibited the sale of certain types of U.S. riot control equipment to the HKPF for one year, or to November 26, 2020. The Hong Kong Autonomy Act (HKAA, P.L. 116-149) requires the President to impose sanctions on foreign individuals and entities that materially contribute to China's failure to preserve Hong Kong's autonomy.

U.S. Sanctions

On July 14, 2020, President Trump issued the President's Executive Order on Hong Kong Normalization (EO13936), citing the authority provided by the USHKPA, the HKHRDA, and the HKAA. The order stated that the HKSAR "is no longer sufficiently autonomous to justify differential treatment in relation to the People's Republic of

China," and suspended such differential treatment. It also authorized the Secretaries of State and the Treasury to impose visa and economic sanctions on HKSAR and PRC officials determined to be responsible for the erosion of the HKSAR's autonomy, the undermining of democracy in Hong Kong, or the loss of the rights of Hong Kong residents. Since the issuance of EO13936, 20 PRC officials and 8 HKSAR officials have been sanctioned, including HKSAR Chief Executive Carrie Lam Cheng Yuet-ngor and HKPF Commissioner Chris Tang Ping-keung.

Response of HKSAR and PRC

The HKSAR and PRC governments have condemned the passage of the Hong Kong-related laws, the issuance of EO13936, the suspension of Hong Kong's special treatment, and the imposition of sanctions on their officials. The HKSAR government described the sanctions as "blatant interference in the internal affairs of the PRC, violating international law and basic norms governing international relations." The PRC government has imposed visa and other sanctions on U.S. officials.

Issues in 2021

The 117th Congress and the presumed Biden Administration will likely face several issues in U.S. relations with the HKSAR and the PRC, including continuing threats to the rights of Hong Kong residents; erosion of the rule of law; and the possible departure of international businesses.

Threats to the Rights of Hong Kong Residents

The HKSAR government and the HKPF probably will continue to arrest, detain and charge Hong Kong dissidents for alleged violations of the NSL and other laws. The HKSAR government has also taken steps to censor political content in the local media, including *Apple Daily* and *RTHK*. The Education Department is revising school curriculum to promote more patriotic opinions of the PRC.

Erosion of Hong Kong's Rule of Law

Hong Kong's independent judiciary, and its traditional utilization of British Common Law, is a major factor in the city's development into an international financial and trade center. The PRC government has suggested that Hong Kong judges should be more "patriotic" and consider the best interests of the HKSAR and PRC in its decisions. Some pro-government commentators have criticized Hong Kong judges for being too sympathetic to the Hong Kong protesters in their rulings. The HKSAR government has reassigned a few judges so they will no longer hear cases pertaining to the 2019 protests. In addition, the NSL contains provisions that allow cases to be referred to courts in mainland China for adjudication.

Departure of International Businesses

The social unrest of 2019, the imposition of the NSL, the perceived crackdown on political opposition, and the erosion of the rule of law reportedly are leading to some U.S. and other international companies reexamining their presence in Hong Kong. In the second half of 2020, the number of foreign firms in Hong Kong shrank for the first time in 11 years.

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