

350 Fifth Avenue, 34th Floor
New York, NY 10118-3299
Tel: 212-290-4700
Fax: 212-736-1300; 917-591-3452

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June 27, 2018

Carrie Lam
Chief Executive
1 Tim Wa Avenue
Admiralty
Hong Kong

CC:
Hong Kong Macau Office
Liaison Office

Re: Human Rights Concerns in Hong Kong

Dear Chief Executive Lam,

Human Rights Watch is an independent, nongovernmental organization that monitors and reports on human rights in over 90 countries around the world, including Hong Kong and China, where we have worked for nearly three decades. We are writing now to express our concerns regarding the rapid deterioration of civil and political rights in Hong Kong. Human Rights Watch [wrote](#) to you regarding some of these matters on June 13, 2017, yet we have not received a substantive response.

Since that time, the Hong Kong government has taken further steps to restrict a range of rights guaranteed to citizens by Hong Kong's functional constitution, the Basic Law, and are protected under international human rights law. These include: prosecutions of additional pro-democracy figures and an effort to exclude them from public office; an orchestrated rhetorical attack by Hong Kong and mainland authorities against an academic for expressing his peaceful opinion; growing interference with academic and publishing freedoms; and the possible introduction of a national anthem law that will further restrict Hong Kong people's right to freedom of expression.

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Increasing Restrictions on Electoral Rights

Despite the Hong Kong Basic Law's guarantee that people in Hong Kong should enjoy universal suffrage in the elections of their leaders, the Hong Kong and Beijing governments have repeatedly rejected the fulfillment of such promise, particularly in the selection of Hong Kong's top leader, the Chief Executive. In addition, since 2016, authorities have further undermined Hong Kong's limited electoral rights by attacking its semi-democratic legislature, the Legislative Council (LegCo). Individuals who have advocated independence or self-determination for Hong Kong have been targeted for disqualification from running for LegCo, or [unseated](#) after they were elected.

In 2016, the Hong Kong Electoral Affairs Commission (EAC) disqualified two pro-democracy candidates – Edward Leung of Hong Kong Indigenous and Andy Chan of the Hong Kong National Party – because their pro-independence stances were deemed “incompatible with the Basic Law.” Following the 2016 LegCo elections, in which a number of outspoken pro-democracy candidates won, Beijing intervened by issuing an “interpretation” of the Basic Law that compelled the Hong Kong courts to disqualify two legislators who explicitly advocated independence for Hong Kong. That court decision later led to the disqualification of four more pro-democracy legislators. In January 2018, the EAC disqualified the Demosisto Party candidate Agnes Chow, stating that her promotion of “self-determination” for Hong Kong is “[inconsistent](#)” with the Basic Law.

The Basic Law and the International Covenant on Civil and Political Rights (ICCPR) – which applies to Hong Kong – guarantee the rights to freedom of expression, to stand for elections, and to participate in public affairs. Vetting election candidates based on their peaceful political views violates these rights. Moreover, Beijing's 2016 “interpretation” while Hong Kong courts were still hearing the case amounted to interference in the independence of the judiciary, in violation of the ICCPR.

There are indications that more people will be wrongfully disqualified from running for office. In April 2018, Wang Zhimin, director of the China Liaison Office, Beijing's representative office in Hong Kong, [said](#) that anyone who calls for “an end to one-party rule in China” – a common slogan in Hong Kong's pro-democracy rallies – should be disqualified from elections. In March and [April](#), in response to journalists' questions about Wang's remarks and earlier ones articulated by a pro-Beijing politician, you said that each case will be determined by election officers “[depending on the legal requirements at the time](#).” It greatly concerns us that you neither refuted nor challenged Wang's statement as being a threat to Hong Kong people's right to free expression.

Politicized Prosecutions of Pro-Democracy Figures

In April 2017, Human Rights Watch [documented](#) a pattern of politically motivated prosecutions against pro-democracy and opposition political leaders in Hong Kong. Since that time, more leaders and activists have been [charged with various dubious criminal offenses](#), ranging from unlawful assembly, obstructing police, and inciting disorderly conduct in a public place, and some have been sentenced to imprisonment as a result. This pattern appears to emerge following the 2014 large-scale pro-democracy Umbrella Movement, which Beijing has denounced on numerous occasions. Chinese state media have characterized the protesters as “[traitors](#)” who must be “[thoroughly eliminated](#).”

In one case, legislator Cheng Chung-tai was found guilty of desecrating Hong Kong and Chinese flags for turning them upside down at a LegCo meeting; in another, Avery Ng was convicted of “assaulting a police officer” after he threw a sandwich at the then-chief executive, CY Leung, but missed him and hit an officer instead. We are especially concerned about the half-dozen cases in which people have been charged under the Public Order Ordinance, which the United Nations Human Rights Committee has criticized for possibly “facilitat[ing] excessive restrictions” to basic rights. Human Rights Watch has also [previously urged](#) the Hong Kong government to amend the law to meet international standards on freedom of peaceful assembly.

Rhetorical Attacks Against Academic Benny Tai

Human Rights Watch has previously expressed concerns about attacks on the right to freedom of expression in Hong Kong. In March 2018, Hong Kong legal scholar and Umbrella Movement leader, Benny Tai, gave a speech in Taiwan, in which he spoke hypothetically about the possibility of Hong Kong seeking independence if China were to become democratic. The Hong Kong government spokesperson [issued](#) a statement in response, saying that the government was “shocked” that an academic “could consider [Hong Kong] becoming an independent state, and strongly condemns such remarks.”

Following the government statement, the [China Liaison Office](#), the [Hong Kong and Macau Affairs Office](#), a mainland office in charge of Hong Kong affairs, Chinese [state media](#), and Hong Kong’s pro-government legislators followed suit in criticizing Tai. China Liaison Office Director Wang and Tam Yiu-chung, a Hong Kong delegate to China’s National People’s Congress Standing Committee, [characterized](#) Tai’s remarks as “a threat to national security.”

Although you [have denied](#) any intention to suppress freedom of speech or academic freedom in this case, the Hong Kong government's condemnation of a scholar for sharing his [peaceful academic opinion](#), has encouraged a series of rhetorical attacks against him. It sends a signal to people in Hong Kong that anyone who makes remarks relating to Hong Kong independence – however remotely – would be scrutinized and intimidated by the authorities.

Political Censorship in Education

Human Rights Watch is also concerned about ongoing political censorship in Hong Kong education. During your tenure, the Hong Kong Education Bureau has imposed political views favored by the Chinese government on schools and textbook publishers.

In April 2018, Hong Kong media revealed that earlier that year the bureau's textbook review group [criticized phrases in textbooks](#) for using "inappropriate wording," such as "China was the one-party dictatorship of the Chinese Communist Party," and "China insisted on recovering Hong Kong's sovereignty." The bureau chief [claimed](#) that China has always exercised sovereignty over Hong Kong. Hong Kong media have also found that, prior to this revelation, other textbook publishers have already been [revising textbooks](#) to express views closer to those held by the Chinese government, such as calling Taiwan a province of China.

In May 2018, the Education Bureau [announced](#) the details of a reform plan for teaching Chinese history, which will be a mandatory subject for junior high schools beginning in the 2018-2019 school year. According to the plan, historic events such as the 1989 Tiananmen Massacre in Beijing and the 1967 leftist riots in Hong Kong will not be taught. In addition, Hong Kong history will not be taught as a separate topic but will instead be incorporated into the context of Chinese history to "[enable students to understand the relationship between Hong Kong and China](#)," according to the Secretary for Education.

The fact that Hong Kong education authorities are instructing textbook publishers and modifying curriculum to censor views and bring them in line with those preferred by Beijing infringes upon academic freedom as well as students' and educators' freedom to access information, both protected under the Hong Kong Basic Law and the ICCPR.

Proposed National Anthem Law Threatens Free Speech

We are also [concerned](#) about a proposed law that criminalizes "insults" to China's national anthem. International human rights law permits restrictions on speech to protect

national security or public order, but only when absolutely necessary and strictly proportionate to the risk of harm to those interests. The bill does not meet this requirement and would violate the right to free expression guaranteed under the Basic Law.

You have previously played down fears that the enacted bill would be politicized, saying it merely aims to encourage “[respect](#)” for the anthem. However, we have yet to see any acknowledgement from you about citizens’ concerns that the law might be used to compel their political loyalty to Beijing or prosecute peaceful critics, or, more simply, how the bill would violate existing law applicable in Hong Kong, including the ICCPR.

Threats to Freedom of Publication

A recent report by Hong Kong [media](#) found that the China Liaison Office owns—through opaque ownership structures— more than half of the bookstores (including four major book chains) and 30 publishing houses in Hong Kong. These stores are removing or not displaying titles critical of China’s and Hong Kong’s governments, as well as those about the Umbrella Movement.

Human Rights Watch has previously criticized the Chinese government’s [enforced disappearances](#) of the five [booksellers](#) from the Hong Kong Mighty Current publishing house, which issues books about mainland political intrigues. One of the booksellers, Lee Po, was allegedly abducted by Chinese security agents from Hong Kong. Although Hong Kong government officials have met with mainland Chinese officials about the booksellers’ case, neither has publicly explained whether Lee was abducted from Hong Kong. The then-Hong Kong Chief Executive CY Leung had said that it would be “unacceptable for mainland law enforcement to operate in Hong Kong” because it “violates the Basic Law,” the territory’s functional constitution. Yet neither Leung nor you have clarified whether any mainland security agents operate in Hong Kong.

We hope you will speak to the public dismay about this state of affairs, investigate whether there are systematic manipulations of the book market such that people’s rights to freely publish and access information have been unduly restricted, and reassure all those who want to run independent bookstores that their operations will be equal before the law and receive equal protection from Hong Kong authorities.


Recommendations to the Hong Kong government

On the 21st anniversary of the establishment of the Special Administrative Region of Hong Kong, Human Rights Watch urges you to mark the occasion by releasing a statement renewing the Hong Kong government's commitment to respecting human rights. In addition, we also call upon you to:

- Lift political restrictions on the right to stand for elections and reopen the process for political reform, and communicate to Beijing that Hong Kong people support genuine universal suffrage;
- Drop all charges against opposition leaders and pro-democracy activists for their peaceful activities;
- Retract the government's criticism of Professor Tai and reiterate the government's respect for peaceful expression;
- Review instructions to textbook publishers and retract those that aim to censor political expression;
- Withdraw the national anthem bill; and
- Investigate Lee Po's alleged abduction from Hong Kong and the extent to which the Chinese government has interfered with publishing freedom in Hong Kong.

We look forward to your reply and would be pleased to discuss these matters with appropriate officials at your convenience.

Sincerely,



Sophie Richardson
China Director
Human Rights Watch