

# افغانستان آزاد – آزاد افغانستان

AA-AA

چو کشور نېاشد تن من مېباد      بدین یوم ویر زنده یک تن مېباد  
همه سر به سر تن به کشتن دهیم      از آن به که کشور به دشمن دهیم

[www.afgazad.com](http://www.afgazad.com)

[afgazad@gmail.com](mailto:afgazad@gmail.com)

European Languages

زبان های اروپایی

<http://thediplotmat.com/2016/03/three-strikes-a-tipping-point-for-hong-kong/>

## Three Strikes: A Tipping Point for Hong Kong?

**Do recent events spell the end of Hong Kong's days as a global center?**

By Farzana Aslam  
March 24, 2016

For the past few decades, Hong Kong's business networks with mainland China and neighboring countries have positioned it advantageously for intraregional trade and investment activities. A low tax regime, a wealth of financial, logistics, legal, and accounting professionals, a transparent legal environment, and a commitment to the rule of law have enticed transnational companies to locate their headquarters in the territory, defining Hong Kong as the "Gateway to the East." Confident in the longevity of this role, in 2001 Hong Kong designated itself as "Asia's World City." However, three recent events have marked a tipping point in the geopolitical relevance of Hong Kong.

### Strike One: The TPP

The first of these events took place on February 4, 2016 with the signing of the Trans-Pacific Partnership. The 12 nations that are party to the TPP — Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, United States, and Vietnam — have reached an ambitious new trade agreement. Significantly for Hong Kong, China is not a signatory. While the TPP will eliminate trade restrictions, tariffs, and barriers in order to facilitate trade and foreign direct investment between signatory states, it is also likely to disrupt existing patterns of trade and investment in Asia Pacific for non-signatory states in the region.

As such, the TPP represents a strategic play by the U.S. government to assert its influence in the region by shifting flows of foreign direct investment and trade away from China.

Part of TPP's approach is to achieve its aims by raising labor standards across the Asia-Pacific region, rather than by taking advantage of a pool of cheap labor at the expense of minimal labor protections, as has been the net impact of many foreign trade agreements. In this way, TPP's architects hope not only to avoid a "race to the bottom" by improving the conditions of workers in the Asia Pacific region, but also to level the playing field for American businesses.

Chapter 19 of the TPP purports to contain the "strongest protections for workers of any trade agreement in history," requiring all TPP parties to recognize the fundamental labor rights as defined by the International Labor Organization (ILO), including the right to collective bargaining; elimination of forced labor and child labor; and the elimination of employment discrimination. Chapter 19 includes commitments to discourage importation of goods that are produced by forced labor or that contain inputs produced by forced labor, regardless of whether the source country is a TPP country. It also requires TPP parties to have laws governing minimum wages, hours of work, and occupational safety and health. All these are fully enforceable and backed up by trade sanctions.

Countries in Asia typically lack strong labor laws and protections, as well as grievance and enforcement mechanisms, and indeed have used a ready supply of cheap labor and lack of labor regulation as an incentive for foreign direct investment. The TPP attempts to change this dynamic. As part of the conditions of membership in the TPP, both Malaysia and Vietnam have entered into bilateral side agreements with the United States, under which they commit to amend domestic legislation to ensure compliance with the international labor standards referred to in the TPP. Accordingly, Vietnam has agreed to amend its Penal Code to apply appropriate criminal sanctions for the use of forced labor and expand its definition of forced labor to include debt bondage. Malaysia has agreed to issue regulations providing protection services for victims of trafficking and forced labor.

By contrast, Hong Kong has persistently denied the need to enact laws that prohibit forced labor, claiming that it is not a problem that affects Hong Kong. The prohibitions against human trafficking that do exist in Hong Kong are piecemeal in nature and are focused on the sex trade and prostitution.

This despite the fact that the U.S 2015 Trafficking in Persons (TIP) Report ranked Hong Kong in Tier 2 for the seventh consecutive year and classified it as a "destination, transit, and source territory for men, women, and children subjected to sex trafficking and forced labor." The report cited the prevalence of forced labor as a matter of particular concern.

The concerns raised by the 2015 TIP Report are supported by recently published research by Justice Centre Hong Kong (JCHK), a Hong Kong based NGO (of which the author serves as board chair). The JCHK report revealed that 17 percent, or one in six, of the Hong Kong migrant domestic workers that were surveyed are in forced labor. The study also found that of the domestic workers in forced labor, 14 percent, one in seven, were trafficked.

The JCHK study was confined to exploring the prevalence of forced labor and trafficking into forced labor among the migrant domestic worker population, a workforce of some 336,000 whose conditions of employment are regulated. It is inconceivable to imagine that other sectors of the workforce that are not subject to the same extent of regulation, such as manual laborers working in the construction industry, are free from conditions of forced labor. The Hong Kong Government's insistence on a non-interventionist approach to the issue of forced labor may well leave it behind its regional competitors and prove to be a significant barrier to trade and investment under a ratified TPP.

## **Strike Two: The Booksellers Incident**

The second event unfolded during the last months of 2015 with the disappearance of five Hong Kong booksellers. All were linked with a bookstore and publishing house that specializes in publications critical of the Communist Party. Hong Kong, having long relied upon its ability to keep at bay the territorial if not the political interference of China, was caught off guard and has appeared impotent in its ability to respond in a timely or robust manner to this apparent attack on its right to administer its own affairs as guaranteed by Article 22 of the Basic Law.

In its latest six monthly report on Hong Kong, the U.K. government described the incident as a "serious breach of the Sino-British Joint Declaration on Hong Kong ... [that] undermines the principle of 'One Country, Two Systems' which assures Hong Kong residents of the protection of the Hong Kong legal system." The report concludes: "it is essential for continued confidence in 'One Country, Two Systems' both in Hong Kong and internationally, that Hong Kong continues to enjoy, and is seen to enjoy, the high degree of autonomy and the rights and freedoms enshrined in the Basic Law and guaranteed in international law by the Joint Declaration."

In an open letter to Hong Kong Chief Executive C.Y. Leung dated February 17, published on the PEN American Center website, booksellers, publishers, and advocacy groups from the U.S. and Europe declared the developments a "chilling confirmation of the steady erosion of the freedom of expression in Hong Kong," concluding "the history, culture, and freedom of the people of Hong Kong are at stake in the outcome of this case."

All five of the missing men were later confirmed to be in China, although supposedly all went of their own free will to cooperate in Chinese investigations. Two have since been allowed to return to Hong Kong, but the damage to the territory's reputation has already been done. Their appearance giving televised confessions on Chinese state media did little to quell fears about Beijing's interference.

Of late, however, the Hong Kong Government has not responded well to such concerns being voiced by foreign governments. The 2015 Annual Report of the U.S.-China Economic and Security Review Commission (USCC) raised concerns regarding universal suffrage, rule of law, and declining press and academic freedom in Hong Kong. In a press release, the Hong Kong government's response to the USCC report opens with a reference to Hong Kong's "return to the Motherland," and concludes with the following statement: "Foreign governments and legislatures should not interfere in any form in the internal affairs of Hong Kong." Disturbingly,

these words mimic the sentiments expressed by the China's State Council Information Office's White Paper on the implementation of the "one country, two systems" policy in Hong Kong, issued on June, 10, 2014. In the white paper, China warns of the need to "stay alert to the attempt of outside forces to use Hong Kong to interfere in China's domestic affairs."

### **Strike Three: The Mong Kok "Separatists"**

The third event took place on Lunar New Year, when an angry mob of young Hong Kong residents clashed violently with police in Mong Kok following a crackdown on unlicensed hawkers selling traditional food for the New Year celebrations, an incident which has since been dubbed the "Fishball Revolution."

On February 18, a commentary appeared on the front page of *China National Defense News*, an official paper associated with the PLA, bearing the headline: "Never Allow Any Powers to Bring Chaos to Hong Kong." The article refers to the Mong Kok rioters as "separatists," a title usually reserved for groups that are seen as a threat to China's national security.

This commentary is particularly alarming in light of the new National Security Law, passed by the Chinese National People's Congress Standing Committee on July 1, 2015, which makes specific reference to Hong Kong. Article 11 of the law notes that "safeguarding China's sovereignty and territorial integrity is the common obligation of all Chinese people, including those in Hong Kong and Macau as well as Taiwan." This point is reiterated in Article 40, which states: "The Special Administrative Region of Hong Kong and Macau must fulfill their responsibility to safeguard national security." The fact that this law was passed on July 1 is nothing short of pointed. July 1 is the date on which Hong Kong was transferred by the United Kingdom to China, but it also marks the date on which an annual protest rally has been held since the 1997 handover. In 2003 the rally turned into the largest protest ever seen in Hong Kong, drawing a crowd of 500,000 opposed to the implementation of anti-subversion legislation under Article 23 of the Basic Law.

The confluence of these events threatens Hong Kong's standing on the world stage. In its desire to preserve relations with Beijing, Hong Kong must not lose sight of what has ensured its prosperity in recent decades, namely that its geographical proximity and unique political relationship with the mainland under the one country, two systems model has enabled it to act as a connector to China rather than simply an annex of it. One of the reasons that Hong Kong is a location of choice for multinationals in the region, and why many have chosen Hong Kong as their regional headquarters, is not because Hong Kong offers greater economic opportunities than a headquarters based on the mainland would afford. Rather, it is to avoid the threat of the exercise of arbitrary power that living in a jurisdiction with a weak rule of law poses to one of any company's most important assets, namely, its employees.

On February 15, 2016 HSBC announced that its headquarters are to remain in London, dismissing the prospect of a much talked about relocation to Hong Kong. A *Reuters* report speculated that "gyrations in Chinese markets coupled with concerns about China's growing influence over Hong Kong had helped make it more likely the bank would stick to London." The timing of the HSBC decision may prove prescient, for it must surely leave many multinational

corporations with their regional headquarters within the Territory struggling to define the value of remaining in Hong Kong.

If Hong Kong is to continue to enjoy its status as an International financial and trading hub, it must have a bold and expansive vision that includes a respect for the fundamental rights and freedoms of all residents and workers in Hong Kong. That, after all, is what makes Hong Kong an attractive alternative to the mainland.