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**FROM “OCCUPYING CENTRAL” TO  
“ANTI-EXTRADITION” IN HONG KONG –  
LIMITS OF LAW AND POWER OF POLITICS**

**DE “OCUPA CENTRAL” A “ANTI-EXTRADICIÓN”  
EN HONG KONG: LOS LIMITES DE LA LEY  
Y EL PODER DE LA POLÍTICA**

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**ABSTRACT:** The “Anti-extradition Movement” in Hong Kong has been going on for months after it began in June 2019. Since it was sparked by an extradition bill, this article tries to answer the questions why the Bill has failed, for what reasons, and seeks to discern the lessons Hong Kong should learn from it. After reviewing the background and main contents of the Bill, as well as the movement, this article analyzes major legal issues relating to the Extradition Bill, which demonstrates that the contents of the Bill are reasonable and would remove two major obstacles for future conclusion of a desirable bilateral agreement between Hong Kong and mainland China. The article argues that though the contents and the necessity of the Bill is unquestionable, its consultation was too hasty, the timing was not appropriate, and the promotion was unsatisfactory. As a result, an opportunity to move closer towards the conclusion of a bilateral extradition agreement has been wasted. A well-intentioned and drafted Bill is meaningless if the Government cannot convince its people about it. Law and legal arguments have their limits. Since legislative process is both legal and political, law reached its limits when politics succeeded in mobilizing sufficient people against the Bill.

**Key Words:** Anti-Extradition Movement, Extradition Bill, Hong Kong, Surrender of Fugitives, China

RESUMEN: El “Movimiento contra la Extradición” en Hong Kong se ha prolongado por meses después de comenzar en junio de 2019. Dado que fue catalizado por un proyecto de ley de extradición, este artículo intenta responder a las preguntas sobre cómo el proyecto de ley ha fallado, por qué razones, y luego busca discernir las lecciones que Hong Kong debería aprender de él. Después de revisar los antecedentes y los principales contenidos del proyecto de ley, así como el movimiento, este artículo analiza los principales problemas legales relacionados con el proyecto de ley de extradición, lo que demuestra que los contenidos del proyecto de ley son razonables y eliminarían dos obstáculos importantes para la futura conclusión de un deseable acuerdo bilateral entre Hong Kong y China continental. Se argumenta que, aunque los contenidos y la necesidad del proyecto de ley son incuestionables, las consultas fueron demasiado apresuradas, el momento no fue apropiado y la socialización no fue satisfactoria. Como resultado, se desperdició la oportunidad de acercarse a la conclusión de un acuerdo bilateral de extradición. Un proyecto de ley bien intencionado y redactado vale poco si el Gobierno no logra convencer a su pueblo. La ley y los argumentos legales tienen sus límites. Dado que el proceso legislativo no es solo legal sino también político, la ley alcanzó sus límites cuando la política logró movilizar a suficientes personas contra el proyecto de ley.

Palabras claves: Movimiento contra la extradición, proyecto de ley de extradición, Hong Kong, entrega de fugitivos, China.

## I. Introduction<sup>1</sup>

The “Occupying Central” movement, also dubbed as “Umbrella Movement”, happened in 2014 and lasted for 79 days. Its direct cause was mainland China’s decision to include a vetting procedure for all candidates for Chief Executive in Hong Kong Special Administrative Region (“Hong Kong” or HKSAR) before an election through “one person, one vote”. Now, less than five years after the “Occupying Central” movement, another major political movement, the “Anti-extradition Movement”, occurred. This time, it

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has attracted more participants (SCMP Reporters, 2019e).<sup>2</sup> It is more serious and more violent. It has also lasted much longer — more than 6 months by early 2020, only stopped by Covid-19. The “Anti-extradition Movement” has split Hong Kong’s society, seriously challenged one fundamental value cherished by Hong Kong people, i.e., rule of law, and made many people, both local and overseas, wonder whether the principle of “one country, two systems” can actually work (G. Cheung, Lam, & Leung, 2019; Cross, 2019b; Fernando, 2019; Li & Cheng, 2019; B. Wong, 2019). Unlike the “Occupying Central” movement, which had only one demand – universal suffrage of the Chief Executive –, the demands of the “Anti-extradition Movement” have changed over time from withdrawal of the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 (Extradition Bill) (“Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019”, 2019) to “Five Demands”. The contents of “Five Demands” have also evolved over time (Tong, 2019; Wong, Tsui-kai, 2019). While a significant percentage of ordinary people in Hong Kong are worried about the potential negative impact of the Extradition Bill, its detailed analysis reveals that the Extradition Bill is quite reasonable. Moreover, it would have removed two major hurdles to the conclusion of a bilateral agreement between Hong Kong and mainland China on surrender of fugitive offenders. Accordingly, had the Extradition Bill been enacted with support of Central Authorities in mainland China, it would be foreseeable that mainland China won’t object the inclusion of similar provisions in future bilateral agreement on surrender of fugitive offenders. Both sides will benefit from such an agreement. However, by the legal standards, a reasonably good Extradition Bill has failed completely. Continuous protests accompanied by vandalism, rioting and arson have forced the Hong Kong Government to succumb unwillingly to public pressure and to withdraw the Extradition Bill. This article intends to answer the questions why a quite good Extradition Bill has failed, for what reasons it has failed, and seeks to find out the lessons Hong Kong should learn from this painful experience which has paralyzed Hong Kong’s society for months, in order to ensure that the principle of

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<sup>2</sup> The organizers claimed that there are around 2 million participants in protest on 16 June 2019. That number may be exaggerated. But the number is mostly likely more than 1 million, far more than half a million during anti-article 23 legislation demonstration in 2003, which led to the withdrawal of article 23 legislation and resignation of Mrs. Regina Ip, the Secretary for Security at that time who was responsible for Article 23 Legislation and later early resignation of Tung Chee Hwa, the Chief Executive, during the middle of his second term as the Chief Executive (Creery, 2019a; SCMP Reporter, 2005).

“one country, two systems” will apply smoothly until 2047 or even well beyond that year.

Since the root cause of the “Anti-extradition Movement” is the Extradition Bill, this article first discusses the background and the main contents of the Extradition Bill. It then provides a summary of the development of the “Anti-extradition Movement”. Part III of the article analyzes major legal issues arising from the debate on the pros and cons of the Extradition Bill, including the intention of the Extradition Bill, necessity of case-based extradition mechanism, adequacy of human rights safeguards, positive contributions of the Extradition Bill, and so on. The discussion demonstrates that the contents of the Extradition Bill are actually very reasonable and would remove two major obstacles for the conclusion of a bilateral agreement on the same matter between Hong Kong and mainland China in the future. But its timing is not right and the Extradition Bill has become the last straw triggering the “Anti-extradition Movement”. The article concludes by arguing that although the contents and the necessity of the Extradition Bill itself are unquestionable, its consultation was too hasty, the timing was not appropriate, and the promotion was unsatisfactory. As a result, a good opportunity to move closer towards the conclusion of a bilateral extradition agreement between Hong Kong and mainland China has been wasted. The draft legislation may be well-intentioned and well-drafted. However, it is meaningless if the Hong Kong Government cannot convince its people about it. Nor can the legislation be successful if the timing is not correct. Law and legal arguments have their limits. Legislative process is both legal and political. When politics manages to mobilize sufficient ordinary people against the Extradition Bill, law reaches its limits.

## **II. The Background, the Extradition Bill, and the “Anti-Extradition Movement”**

### **II.1. Background**

Hong Kong resident Chan Tong-kai killed his girlfriend Poon Hiu-wing in early 2018 in Taiwan and then returned to Hong Kong. Hong Kong criminal law doesn't provide for extraterritorial jurisdiction for murder committed in another jurisdiction and there is no bilateral agreement between Hong Kong and Taiwan to extradite Chan to Taiwan for trial. As a result, neither Hong Kong's Fugitive Offenders Ordinance nor the Mutual Legal Assistance in Criminal Matters Ordinance was applicable to Chan's case. Chan was charged

and convicted for another minor crime in Hong Kong and was released in October 2019 (Lau, Sum & Zhang, 2019; Victor & May, 2019).

The Hong Kong Government introduced in February 2019 the Extradition Bill to the Legislative Council (“LegCo”), Hong Kong’s local legislature, to amend the two existing ordinances to enable extradition of fugitive offenders on a case-by-case basis between Hong Kong and those jurisdictions with which Hong Kong has not yet concluded bilateral extradition agreements, including mainland China, Macau and Taiwan. The Hong Kong Government’s intention was to get the amendments passed by the LegCo before Chan’s release from Hong Kong prison in October 2019 so that he could be extradited to Taiwan for trial immediately after his release. That is why the Hong Kong Government only allowed a consultation period of 20 days for the Extradition Bill<sup>3</sup> (H. Chan, 2019b, 2019d; “Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019”, 2019; Mok, 2019) The Government stated that the Extradition Bill was proposed to fill in a loophole in existing legislation in order to enable Chan to be extradited/surrendered to Taiwan for trial (Security Bureau of HKSAR, 2019a, paras. 3, 8; 2019b, paras. 7-9).

## II.2. The Main Contents of the Extradition Bill

The Extradition Bill intended to amend two pieces of existing local legislation to make possible the surrender of a fugitive offender on a case-by-case basis between Hong Kong and another jurisdiction with which Hong Kong has no long-term surrender arrangement of general nature (“Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019”, 2019). It contains the following specific measures. First, it states that surrender on a case-by-case basis will be applicable between Hong Kong and those jurisdictions with which Hong Kong has not reached an agreement on long-term extradition/surrender of fugitives (“Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019”, 2019, Part 2, and Explanatory Memorandum, para. 1). Second, it stipulates that in relation to special surrender arrangements, the scope of the offences covered for a surrender from Hong Kong will be limited to 37 offences punishable by at least 7 years behind bars<sup>4</sup> and only as they are described in the Fugitive Offenders Ordinance and currently apply in relation to surrender arrangements of a general nature (“Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019”,

<sup>3</sup> The Security Bureau invited the public to express views on the proposals from 12 February to 4 March 2019.

<sup>4</sup> It was originally 3 years.

2019, Part 2, Clause 3 and 4, and Explanatory Memorandum, paras. 3-5; Security Bureau of HKSAR, 2019b, para. 15(b); Sum, 2019). Third, it provides that documents authenticated in accordance with surrender arrangements that are prescribed arrangements are deemed as duly authenticated (“Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019”, 2019, Part 2, Clause 6, and Explanatory Memorandum, para. 6). Fourth, it proposes to lift the geographical restriction under the Mutual Legal Assistance in Criminal Matters Ordinance so that transfers of fugitives will not only be possible for Taiwan but also for Macau and mainland China, which are not covered under existing legislation (“Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019”, 2019, Part 3, Clause 8, and Explanatory Memorandum, para. 1; Security Bureau of HKSAR, 2019b, para. 13(f)). Fifth, it stipulates that a request for assistance in a criminal matter covered by bilateral arrangements for mutual legal assistance made between Hong Kong and any other jurisdictions that are prescribed arrangements may only be made pursuant to the arrangements (“Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019”, 2019, Part 3, Clause 10, and Explanatory Memorandum, para. 9; Security Bureau of HKSAR, 2019b, para. 22). Sixth, it provides that a certificate issued by or under the authority of the Chief Executive is conclusive evidence of there being special surrender arrangements, such that the certificate will serve as a basis to activate the surrender procedures. Such activation does not mean that the fugitive will definitely be surrendered as the request must go through all statutory procedures, including the issuance of an authority to proceed by the Chief Executive, the committal hearing by the court and the eventual issuing of the surrender order by the Chief Executive (“Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019”, 2019, Part 2, Clause 4, and Explanatory Memorandum, para. 2; Security Bureau of HKSAR, 2019b, para. 13(e)). Seventh, other procedural safeguards for the protection of human rights, such as application for *habeas corpus*, application for discharge in case of delay, and judicial review of the Chief Executive's decision and so on, as provided under the Fugitive Offenders Ordinance, will remain unchanged (Security Bureau of HKSAR, 2019b, paras. 9, 14(b)). Further, the Extradition Bill also provides that the case-based co-operation premised on the undertaking of reciprocity will be superseded by the long-term arrangements once the latter have been made and become effective (Security Bureau of HKSAR, 2019b, para 13(g)).

### II.3. The “Anti-extradition Movement”

The Extradition Bill became extremely controversial as soon as the Hong Kong Government announced its introduction. About one month thereafter, the Civil Human Rights Front (CHRF) organized the very first protest against the Bill on 31<sup>st</sup> March 2019 with a modest turnout of around 10,000 people (H. Chan, 2019a).<sup>5</sup> That was followed by the second protest on 28<sup>th</sup> April with the number of participants increasing significantly to around 100,000 (Sum & Ng, 2019).<sup>6</sup> Then came the third protest on 9<sup>th</sup> June with an estimated number of 1.03 million participants (Creery, 2019b; Griffiths, Cheung, & Lee, 2019).<sup>7</sup> Given its own estimate of less than 300,000 participants on 9<sup>th</sup> June, the Government re-affirmed its decision that night to go ahead with the second reading of the Bill as scheduled on 12<sup>th</sup> June (The Government of the HKSAR, 2019a). Driven by anger over the uncompromising stance of the Government, tension and violence started to escalate. In addition to sitting-in around Government Headquarters on 12<sup>th</sup> June, a crowd rushed later onto nearby roads to block traffic and also prevent Legislative Councilors from entering the LegCo building. That forced the LegCo to postpone its second reading of the Bill. (SCMP Reporters, 2019c) In the afternoon, riot police and the Special Tactical Squad were deployed to disperse the crowd. They fired tear gas and shot rubber bullets and bean bag rounds at protesters. Commissioner of Police, Stephen Lo, declared the clashes between protesters and police a “riot” and condemned the protesters’ behavior. (Hollingsworth, 2019) Due to the escalation of violence during protests on 12<sup>th</sup> June, the Chief Executive announced on 15<sup>th</sup> June to suspend the second reading of the Bill indefinitely (SCMP Reporters, 2019b). The pro-democracy camp demanded a full withdrawal of the Bill and decided to go ahead with the 16<sup>th</sup> June rally as planned (K. Leung, Su, & Sum, 2019). Organisers estimated that nearly two million protesters took to the streets on 16<sup>th</sup> June (SCMP Reporters, 2019a). As a result of the massive turnout, the Government issued a statement that night (i) to suspend the Bill with no timetable for its re-launching, (ii) to apologize to Hong Kong people, (iii) to accept sincerely and humbly all criticism, and so on (T. Cheung & Ng, 2019; SCMP Reporters, 2019a). The Chief Executive apologized again on 18<sup>th</sup> June for mishandling the case, but didn’t offer to withdraw the Bill or resign (Lam, 2019a). The protestors came up with five demands, i.e. withdrawal of the Bill, retraction of reference to the 12<sup>th</sup> June protest as a riot, release of all arrested protesters without criminal charge, accountability of police officers who used excessive force (also called

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<sup>5</sup> The organizer said that there were 12,000 participants while police said the peak figure was 5,200.

<sup>6</sup> The organizer said that there were 130,000 protesters while police estimated that the peak figure was 22,800.

<sup>7</sup> Police said that there were 240,000 people at its peak.



“independent inquiry”), and resignation of Carrie Lam (Tong, 2019) (The last demand was later changed to “universal suffrage of all Legislative Councillors and the Chief Executive) (Wong, Tsui-kai, 2019). Their request for the Government’s response by the end of the day on 20<sup>th</sup> June was not met. Dissatisfied protestors continued to organize protests during the following weekends. Another major protest was organized on 1<sup>st</sup> July 2019, the 22<sup>nd</sup> anniversary of Hong Kong’s change of sovereignty (HKFP, 2019b). This time, the protest became more violent with young protesters storming the LegCo and defacing symbols associated with mainland China (HKFP, 2019a; Ruwitch & Pang, 2019). The indiscriminate attack on passengers by a gang at Yuen Long railway station on 21<sup>st</sup> July led many Hong Kong people to suspect that the police colluded with the gang (C. Leung & Ting, 2019). Violent protests continued thereafter every weekend and became a routine. Moreover, protests had become more violent with vandalism, arson and rioting happening on the protest sites. (G. Cheung et al., 2019). The Chief Executive’s announcement on 4<sup>th</sup> September to withdraw officially the Bill was too late to satisfy the protesters (SCMP Reporters, 2019d). She hinted at a TV interview in October a possibility to conduct independent inquiry after completion of the inquiry by the Independent Police Complaints Commission (IPCC) if people are not satisfied with the latter’s report, and to pardon some protestors after they have been through judicial procedures (Yau, 2019). Her hint was, however, not taken seriously by either the protestors or the pan-democratic camp. The continuing violent protests by people wearing masks prompted the Government to invoke the Emergency Regulations Ordinance for the first time in nearly half a century to adopt “the Prohibition on Face Covering Regulation” (also called “Anti-mask Regulation”), which came into effect at midnight of 4<sup>th</sup> October (T. Cheung, Chung, Sum, & Cheung, 2019). In response, thousands of people took to the streets, wearing masks in a show of open defiance. The radicals on the front lines began rioting across the city (T. Cheung, K. Chung, et al., 2019). In the weekend immediately following the promulgation of the Anti-mask Regulation, there was a sharp escalation in vandalism and property destruction (Ting, 2019). The violence and vandalism culminated with the protesters occupying the campus of Chinese University of Hong Kong for one week and the campus of Polytechnic University for two weeks and paralyzed local transportation for about half a month (Chan, Ho-him 2019; Lau & Chan, 2019). By May 2020, there are still protests and it is hard to predict whether things will calm down gradually. The pan-democratic camp together with various civil rights groups had successfully mobilized Hong Kong people, almost one-third at one of the protests, to come out against the Extradition Bill. It suggests that many Hong Kong people are genuinely concerned that the Extradition Bill might have negative impact upon them even

most of them might never read the Bill. The “Anti-extradition Movement” has become the longest, the most popular, and the most violent social movement in Hong Kong. Since the root cause of this movement is the Extradition Bill, it is essential to examine in detail whether the legal issues raised by the Bill warrant and are capable of sustaining such a massive movement. If not, what are the other determining factors for the movement?

### III. Major Legal Issues relating to the Extradition Bill

This section examines the major legal issues arising from the debate in order to shed light on what has gone wrong with the introduction of the Extradition Bill.

#### III.1. The Intention of the Extradition Bill

It had been reported that the Chief Executive, Carrie Lam, received five letters from the family of the victim in Chan’s case. That’s why she was determined to get the Extradition Bill enacted before the LegCo’s 2019 Summer break (Victor & May, 2019). However, a significant number of Hong Kong residents doubted whether that was the genuine intention of the Hong Kong Government. Instead, many suspected that the Hong Kong Government had acted upon instruction from mainland China and the real motive for the introduction of the Extradition Bill was to remove legal obstacles for the surrender of fugitive offenders back to mainland China (Ching, 2019; Lo, 2019). Since general public in Hong Kong and the international society had great reservation over the human rights protection record in mainland China (HKBA, 2019b, paras. 8-16 and Annex 2), it was natural that they became concerned when they knew that the firewall between Hong Kong and mainland China would be removed by the Extradition Bill and they might be extradited to mainland China for trial.

The author of this paper has checked with various sources of information<sup>8</sup> which all confirm that the initiative to introduce the Extradition Bill was from the Hong Kong Government rather than mainland China. But many Hong Kong residents did not believe. This disbelief had become fundamental for the “Anti-extradition Movement” and its continuation. Such disbelief had been worsened by two other factors. One was that after various foreign countries, organizations such as the European Union, and human rights groups had expressed their concerns over the Extradition Bill (Amnesty International Hong Kong, Hong Kong Human Rights Monitor, & Human

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<sup>8</sup> The author has interviewed several mainland senior officials working in both Hong Kong and mainland China.

Rights Watch, 2019; H. Chan, 2019c; T. Cheung, Cheung, Sum, & Lum, 2019; Justice Centre Hong Kong, 2019; Pomfret, 2019), several senior mainland Chinese officials in charge of Hong Kong and Macau affairs, including Vice Premier Han Zhang and Hong Kong and Macau Affairs Office Director Zhang Xiaoming, expressed their support of Hong Kong Government’s introduction of the Extradition Bill (Chung, 2019; Su, 2019). Such support had been regarded as evidence that the real motive of the Extradition Bill was for extradition to mainland China.

The other factor was whether the Extradition Bill was really necessary and the only choice to extradite Chan to Taiwan for trial. One Legislative Councillor, the Honourable Mr. Michael Tien, wrote to the Chief Executive to offer a counter-proposal to resolve the issue of extradition of Chan to Taiwan. He proposed that the Chief Executive in Council could make an order under s. 3(1) of the Fugitive Offenders Ordinance to extradite Chan to Taiwan. The order would go through the “negative vetting” procedure for subsidiary legislation in the LegCo in accordance with s. 3 of the Ordinance.<sup>9</sup> Similarly, the Hong Kong Bar Association suggested that “the Government should amend the legislation to enact Taiwan-only *ad hoc* arrangement under the existing legal framework, always assuming that Taiwan agrees to it” (HKBA, 2019b, para. 29). The Law Society of Hong Kong had also offered its counter proposal to specifically cover the current Taiwan murder case if the Government wanted to transfer the suspect (Law Society of Hong Kong, 2019, para. 4). The existence of different alternatives suggested that the case-by-case extradition was not really necessary and the only option as far as Mr Chan’s case was concerned. The unwillingness of the Hong Kong Government to accept those viable alternatives suggested by lawyers and politicians from across the political spectrum had worsened Hong Kong people’s suspicion of the real motive behind the introduction of the Extradition Bill. With hindsight, the Hong Kong Government should have taken a more flexible approach to resolve the extradition of Mr. Chan to Taiwan for trial first. It can then have more time to deal with *ad hoc* case-by-case extradition with those jurisdictions Hong Kong has no long-term extradition arrangements.

### III.2. Case-by-Case Extradition versus Long-Term Arrangement

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<sup>9</sup> See Michael Tien’s proposal on file with the author. Part II of his proposal contains two specific suggestions on *ad hoc* case-by-case extradition, one is to increase the seriousness of crimes facing extradition from 3 years’ imprisonment to 7 years’ imprisonment (accepted by the Government), non-extradition of Hong Kong residents to mainland China for trial (not accepted by the Government).

The Hong Kong Government’s argument for the Extradition Bill was that it could fill in a loophole in the existing legislation under which a fugitive offender could not be extradited from Hong Kong to jurisdictions with which Hong Kong has no long-term extradition arrangements (Security Bureau of HKSAR, 2019b, paras. 7-9). The very first point to consider is whether that inaction constituted a loophole. Hong Kong Bar Association had argued that the restriction against any surrender arrangements with mainland China was intentional instead of being a loophole. It was because the mainland Chinese criminal justice system was fundamentally different from that in Hong Kong and the Mainland’s track record on the protection of fundamental rights had not been up to international standards (HKBA, 2019a, pp. 2-4; 2019b, paras. 8-16 ; Rifkind, 2019). Given that many Hong Kong residents, their parents or grandparents had fled from mainland China to Hong Kong for different reasons including unfair trials or political persecution, the Hong Kong Bar Association’s argument makes sense. Though technically there was a gap in extradition arrangements with other countries, it was nevertheless an intentional one as far as mainland China was concerned.

The next point worthy of discussion is whether in principle Hong Kong should introduce case-by-case extradition arrangement in addition to long-term extradition arrangements. Those in favour of the introduction of an *ad hoc* case-by-case extradition arrangement were of the view that the Extradition Bill could fill in gaps in existing legislation so that Hong Kong would no longer be a paradise for fugitives (“Law change plugs loophole,” 2019). Fighting crime was equally important. Cross-border crimes, such as manufacturing and trafficking in drugs, human trafficking, smuggling, money laundering, terrorist financing and cyberattacks, could best be countered through cross-border cooperation. Rendition of fugitive offenders was an effective deterrent in the global fight against crime (Ip, 2019). Former Director of Public Prosecution, Mr Grenville Cross, had opined that although it was important to respect the rights of suspects, the debate had downplayed the issue of responsibilities of Hong Kong to other jurisdictions in the global combat of crime (Cross, 2019a). Moreover, it had been noted that similar legislation existed in England, Canada and some other jurisdictions (Cross, 2019a; Security Bureau of HKSAR, 2019b, para. 9). The Extradition Bill should therefore not be demonized (“Law change plugs loophole,” 2019).

It would be ideal if Hong Kong could enter into long-term legal extradition arrangements with other jurisdictions. In reality, negotiation of a bilateral extradition agreement takes considerable time. Such negotiation will take much longer time if the other jurisdiction’s legal system is different from Hong Kong’s or there is lack of mutual trust between the two parties (Security

Bureau of HKSAR, 2019a, para. 2, footnote 1 and 2).<sup>10</sup> It is foreseeable, however, that further necessity may arise that Hong Kong request or be asked to extradite a fugitive offender to or from Hong Kong by another jurisdiction with which Hong Kong has not yet entered into a bilateral extradition agreement. Hence, the establishment through legislating an *ad hoc* case-by-case extradition arrangement would improve Hong Kong’s extradition legislation and make it possible that extradition would always be available with any jurisdiction in the world should there be a necessity. In that sense, it is correct to say that the Extradition Bill will fill in a gap in existing legislation in Hong Kong.

A more specific question is whether an *ad hoc* case-by-case arrangement should be entered into with mainland China before concluding a long-term arrangement. The Honourable Regina Ip argued that “one country, two systems” did not mean that Hong Kong existed as a watertight compartment vis-à-vis the rest of China, working only with foreign countries to surrender fugitives but not with its own motherland (Ip, 2019). Hong Kong had entered into rendition agreements with 20 countries, including some which had fairly low ranks in the World Justice Project’s rule of law index, such as Indonesia and the Philippines. There was scant record of human rights advocates in Hong Kong objecting to surrender to these countries (Ip, 2019). Further, she advocated that the legislative amendments, once in force, meant that any non-common law jurisdiction with which Hong Kong did not yet have a bilateral agreement, whether it be Thailand or the rest of China, would need to submit to Hong Kong’s rigorous common law process, possibly involving court battles over many years, if it submitted a rendition request. Exposure to the common law process would be beneficial to China, which is trying to improve its legal systems (Ip, 2019).

Her points are all reasonable and make good sense. However, the Honourable Regina Ip herself had observed that “[T]he root of the fear is, of course, distrust of mainland systems. I completely acknowledge that” (Creery, 2019a). Without such trust and with the unpleasant historical background, it is

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<sup>10</sup> So far, Hong Kong has signed mutual legal assistance agreements with 32 jurisdictions (Argentina, Australia, Belgium, Canada, Czech, Denmark, France, Finland, Germany, India, Indonesia, Ireland, Israel, Italy, Japan, Malaysia, Mongolia, the Netherlands, New Zealand, the Philippines, Poland, Portugal, the Republic of Korea, Singapore, Sri Lanka, South Africa, Spain, Sweden, Switzerland, the United Kingdom, the United States and Ukraine) and surrender of fugitive offenders agreements with 20 jurisdictions (Australia, Canada, Czech, France, Finland, Germany, India, Indonesia, Ireland, Malaysia, the Netherlands, New Zealand, the Philippines, Portugal, the Republic of Korea, Singapore, South Africa, Sri Lanka, the United Kingdom and the United States).

extremely difficult, if not impossible, to convince Hong Kong people to accept the proposal to establish an *ad hoc* case-by-case extradition arrangement with mainland China. The development of the “Anti-extradition Movement” proves the difficulty.

Another challenge to the Extradition Bill is that of the accountability of the Chief Executive as the only arbiter of whether a special arrangement was to be concluded with a requesting jurisdiction without the scrutiny of the LegCo (HKBA, 2019b, paras. 17-22). This is not a difficult issue to address. It is always better to have additional scrutiny from the LegCo and it is unlikely that such scrutiny will cause inconveniences.

With hindsight, even though it is desirable to establish an *ad hoc* case-by-case extradition arrangement in Hong Kong, the Hong Kong Government should take an incremental approach in its introduction of such an arrangement and make every effort to win Hong Kong people’s confidence. With regard to mainland China, the time may not be ready to establish such an arrangement. Instead, the Honourable Michael Tien’s proposal to limit extradition between Hong Kong and mainland China only to mainland fugitive offenders who are currently in Hong Kong seems to be more likely to get the approval of Hong Kong people.<sup>11</sup>

### III.3. Adequacy of Human Rights Safeguards

Another major debate is on whether or not there are sufficient safeguards under the Extradition Bill to protect fundamental rights of those who may potentially face extradition requests particularly from mainland China. Hong Kong society is sharply split on this.

It is undeniable that some of the core human rights safeguards one can find in most bilateral extradition agreements have been either built into existing legislation in Hong Kong or incorporated into the Extradition Bill, including “double criminality”, right against double jeopardy, right to *habeas corpus*, non-extradition for death penalty, non-extradition for political offences, and non-extradition if the fugitive offender, if surrendered, could face a prejudiced trial because of his race, religion, nationality or political opinions (Security Bureau of HKSAR, 2019b, para. 4). In fact, all these safeguards are available under the two existing legislations governing extradition in Hong Kong (Security Bureau of HKSAR, 2019b). The Extradition Bill would have made them applicable to an *ad hoc* case-by-case extradition arrangement.

The first criticism of the Extradition Bill was that the proposed amendment would bypass the supervision of the LegCo and it would be possible to extradite Hong Kong residents or foreigners passing through Hong

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<sup>11</sup> See note 9.

Kong to mainland China without the LegCo’s monitoring of such case-by-case extradition (Guest Contributor, 2019; HKBA, 2019b, paras. 17-22; Hui, 2019). The core issue with regard to this criticism is whether it is essential to have supervision of a legislature of each *ad hoc* case-by-case extradition. Some human rights groups were of the view that scrutiny by the LegCo over individual executive requests constituted “a crucial layer of governmental and public oversight” (Amnesty International Hong Kong et al., 2019). Hong Kong Bar Association (HKBA, 2019b, para. 4) opined that

“[the] removal of legislative scrutiny for case-based arrangements and replacing it with executive authorization for the arrest and surrender of persons requested by another place with which Hong Kong does not have a proper bilateral arrangement would also lower the bar for securing the liberty and security of persons who may be subject of requests from any other territory or jurisdiction, including an authoritarian or totalitarian regime”.

While agreeing that scrutiny from the LegCo provides additional security, the additional layer is not essential for the protection of the liberty and security of potential fugitive offenders facing extradition requests. If judicial scrutiny is enough to provide protection, the extra layer of scrutiny will serve no meaningful purpose and will only reduce efficiency and may constitute a waste of precious time of the LegCo. Hence, the necessity of scrutiny by the LegCo really depends on the answer to the next question, i.e., whether judicial supervision over extradition requests will provide adequate protection.

Under the Extradition Bill, surrender requests have to go through both judicial and administrative reviews under the Fugitive Offenders Ordinance regime that is designed to protect fundamental rights (HKBA, 2019b, para. 14(g); Security Bureau of HKSAR, 2019b, para 13(e)). Those in favour of the Extradition Bill suggested that both the Hong Kong Government and the courts could ensure that the legislation would be properly implemented (Cross, 2019a; The Government of the HKSAR, 2019b, pp. 7-11). Most importantly, local judges would have power to refuse any extradition request under the Extradition Bill (“Ronny Tong laments justice has lost to politics,” 2019). As noted by the Honourable Regina Ip in an interview with Hong Kong Free Press, the Chief Executive did not really have the final say. It was the judges who would have the ultimate say. She opined that “we should trust our courts, trust our judges. Our judicial system has a high reputation” (Creery, 2019a). Those against the Extradition Bill proposed that such assertion that the judges would be gatekeepers was misleading because the Extradition Bill did not give the court power to review such matters and the court would be in no such

position to do so (Torode & Pomfret, 2019).<sup>12</sup> Some judges and practitioners feared that the proposed legislation would “put [the courts] on a collision course with Beijing” because the limited scope of extradition hearings would leave them little room to manoeuvre, and therefore would be “one of the starkest challenges to Hong Kong’s legal system” (Torode & Pomfret, 2019).<sup>13</sup>

A reading of the Extradition Bill shows that it would not reduce the courts’ supervisory power at all over any extradition requests. The courts in Hong Kong would maintain all the supervisory power under the two existing legislations governing extradition. In principle, it is not convincing to argue that the courts have only limited powers if that argument has never been raised against extradition to any other jurisdictions. However, with regard to extradition to mainland China, the argument that the courts in Hong Kong will be put on a collision course with Beijing needs to be taken seriously. Because of the differences in the two legal systems in Hong Kong and mainland China, the Standing Committee of the National People’s Congress (NPCSC) has interpreted Hong Kong’s Basic Law five times so far. The effect of its first interpretation of the Basic Law in 1999 directly overruled the Court of Final Appeal (CFA) in the *Ng Ka-ling* Case (NPCSC, 1999). This type of collision is unavoidable because the Basic Law gives both, the CFA and the NPCSC, authority to interpret the Basic Law. For extradition requests, however, there is no similar provision in the Basic Law. Hence, concern over collision with Beijing is slightly exaggerated. The existence of such a concern is, however, understandable because the majority of Hong Kong people, including legal practitioners and judges, have only a limited understanding of mainland China’s legal system. What the Hong Kong Government needs to do is to assure Hong Kong people that the courts in Hong Kong can operate as usual in their supervision over extradition requests. If that assurance can be conveyed and also guaranteed, there is no reason to say that the courts in Hong Kong won’t be able to provide adequate protection of the liberty and security of any person facing extradition requests from mainland China.

The third question is whether certain human rights protection measures should be included in the Extradition Bill. The Hong Kong Government’s position was that various human rights protection measures had already been provided for under the Basic Law, the Bill of Rights Ordinance, and the two pieces of legislation governing extradition. It was therefore unnecessary to repeat them in the Extradition Bill (Lam, 2019b; Lum & Sum, 2019). This argument is a valid one in law. Those statutory provisions on human rights

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<sup>12</sup> 12 past and current Bar Council Chairmen.

<sup>13</sup> Three senior judges and 12 practitioners were mentioned. They were concerned that if they tried to stop high-profile suspects from being sent across the border, they would be exposed to criticism and political pressure from Beijing.



protection are applicable to extradition requests and the Basic Law as Hong Kong’s Constitution has an overriding status over any local legislation. It is therefore unnecessary to repeat those provisions in the Extradition Bill. Politically, however, the Government should make a concession on this request in that their inclusion would not affect the content of the Extradition Bill at all.

The fourth concern is that major human rights protection measures such as the right against double jeopardy and *habeas corpus* are only granted under Hong Kong law but not under mainland Chinese law. Under Hong Kong’s British-based common law system, extraditions are based on the presumption of fair trial and humane punishment in the receiving country. This presumption is questionable in China’s Communist Party-controlled legal system (HKBA, 2019b, para. 14). In essence, opponents of the Extradition Bill argued that mainland China was not a jurisdiction to which Hong Kong should extradite any fugitive offenders. However, considering that Canada and France can extradite fugitive offenders to mainland China and have entered into bilateral extradition agreements with China, this author finds the above argument not convincing.

It is fair to say based on the above discussion that the protection of human rights for persons facing potential extradition requests is adequately guaranteed under the existing legislation in Hong Kong. What is lacking is people’s confidence in the courts to strictly apply those statutory protections to any person facing potential extradition requests, particularly from mainland China. Though various legal and technical suggestions have been raised against the Extradition Bill, it is not difficult to see that fundamental concerns with rendition of Hong Kong fugitives to mainland China are the lack of confidence in mainland China and its criminal justice system, as well as the ability of Hong Kong courts to provide adequate protection of the fundamental rights of those suspects facing extradition to mainland China.

#### III.4. Positive Contribution of the Extradition Bill

The necessity to have a long-term extradition arrangement between Hong Kong and mainland China was realized before the change of sovereignty in 1997 (LegCo, 1998).<sup>14</sup> Negotiations had been held for quite some time between the two sides without much success (Zheng, 2019).<sup>15</sup> According to the papers submitted to the Legislative Council entitled “LegCo Panel on Security Arrangements with the Mainland on Surrender of Fugitive Offenders”, there exist some main obstacles over which neither side is willing to compromise,

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<sup>14</sup> Preliminary discussion with the Guangdong authorities started in April 1996.

<sup>15</sup> It was said that such discussion lasted into 2000 without reaching success.

including no extradition in death penalty cases and for political offences (HKBA, 2019b, para. 14; LegCo, 1998; Zheng, 2019). The debate over the Extradition Bill had focused on whether or not the Extradition Bill should be adopted. There is hardly any attention paid to the issue whether the Extradition Bill would facilitate the conclusion of a long-term extradition arrangement between Hong Kong and mainland China. Under the Extradition Bill, as discussed above, the Hong Kong Government intended to extend human rights protection measures for the existing arrangement for long-term extradition to an *ad hoc* case-by-case extradition arrangement. As a result, two main obstacles encountered in the negotiation process on a long-term extradition arrangement between Hong Kong and mainland China have been addressed by the Extradition Bill. The first is whether the principle of non-extradition in death penalty cases would be applied. Hong Kong’s position was that the principle should apply. On the other hand, scholars from mainland China were of the view that the principle would only be applicable to extradition between two sovereign states. Given that Hong Kong is a special administrative region of China, however, the principle should not apply within China (Chau & Lam, 2001, p. 82). The second obstacle is about non-extradition for political offences. Hong Kong’s position is that it is an established general principle which should apply. Yet, how “political offence” will be defined in surrender arrangements between Hong Kong and the Mainland would likely be subject to debate. Scholars from mainland China are, however, very determined that the principle should not be applicable because they hold that there are no political offences under Chinese Criminal Law after its amendments (The State Council Information Office of the People’s Republic of China, 1991). Mainland China has refused to accept the two principles for years (Chau & Lam, 2001, pp. 82, 84).

Though the Extradition Bill said nothing about the two principles, its effect to apply the two existing ordinances governing extradition to an *ad hoc* extradition between Hong Kong and mainland China meant in fact that those two principles, together with many other human rights protection measures, would indeed apply to an *ad hoc* case-by-case extradition between Hong Kong and mainland China were the Extradition Bill enacted into law by the LegCo.

During the debate on the Extradition Bill, several senior Chinese officials, including Han Zheng, Zhang Xiaoming, and Wang Yang, had expressed their support of the Extradition Bill (Chung, 2019; “Extradition laws will boost rule of law: Han Zheng,” 2019; He, 2019; Zhang, 2019a). Mr. Han is one of the seven members of the Standing Committee of the Political Bureau of the Central Committee of the CCP, the highest leading organ within China (Xinhua, 2019). Therefore, his support can be seen as representing the position of the Chinese Central Government. The public support of the Extradition Bill

by three senior Chinese officials means China’s implicit acceptance of the application of the two principles. The implied acceptance of the two principles may well be unintentional because the two principles were not explicitly referred to in the Extradition Bill. Had the Extradition Bill been passed into law, however, it would be unlikely that mainland China would say no to the inclusion of the two non-extradition principles in a future long-term arrangement on surrender of fugitives between Hong Kong and mainland China. It is clear from the above discussion that the adoption of the Extradition Bill would have removed two major obstacles in any future bilateral negotiation on extradition arrangement between Hong Kong and mainland China. Therefore, the adoption of the Extradition Bill would have made it more likely that a bilateral agreement on surrender of fugitive offenders be reached with fewer obstacles in the future.

### III.5. Other Issues

One criticism over the Extradition Bill was that more time should be given for consultation and a comprehensive review of the current extradition system and research on the cross-jurisdiction transfer of fugitives should be done prior to the proposal of such laws (Law Society of Hong Kong, 2019). As already noted above, the Hong Kong Government only gave people 20 days for public consultation over the Extradition Bill (G. Cheung, 2019; Security Bureau of HKSAR, 2019b, para. 17). The Extradition Bill would cover mainland China. Considering that Hong Kong and mainland China have not been able to reach an agreement on extradition in 22 years after China resumed its sovereignty over Hong Kong, it is not too critical to say that the Hong Kong Government had been over-confident or even too arrogant to believe that it could resolve the extradition issue between Hong Kong and mainland China through the backdoor of case-based *ad hoc* extradition arrangement after 20 days of public consultation. In pushing through the Extradition Bill, another important factor which the Hong Kong Government had failed to give proper consideration to is the adverse social environment when it introduced the Extradition Bill. The former chairman of the Hong Kong Bar Association, Mr. Edward Chan S.C., had criticised the Government for undermining Hong Kong’s reputation for rule of law and the principle of “one country, two systems” (Sum & Lum, 2019). Given that many business chambers and diplomats in Hong Kong had voiced their concerns over the Extradition Bill, Chan argued that: “[T]he government has created an impression in the outside world that the central government could directly intervene in the city’s internal affairs”(Sum & Lum, 2019). He further noted that “[A]s we talked about one country, two systems, and rule of law, it’s not about feeling good ourselves – it also has to be

recognised by others” (Sum & Lum, 2019). He also urged the Government to ensure that the jurisdiction which would request extradition of fugitives from Hong Kong could provide a comparable standard of justice, and should spell out the safeguards in the law (Sum & Lum, 2019). Since the “Occupying Central” movement in 2014, a series of political events occurred, including the NPCSC’s interpretation of Article 104 of the Basic Law making support of the Basic Law a condition to participate in elections in Hong Kong (NPCSC, 2016), the disqualification of several Legislative Councillors who failed to take their oath properly (Zhao, 2017), prosecution of the organizers and some participants in the “Occupying Central” movement (E. Cheung & Griffiths, 2019), refusal to extend employment visa to a British journalist who had worked in Hong Kong for a long period of time because he hosted a talk by Mr Andy Chan, the chairman of former Hong Kong National Party (Wilkinson, 2018), the ban of the operation of the Hong Kong National Party (Zhang, 2019b), amongst others. Those events have widely been interpreted as mainland China’s tightening of its control in Hong Kong and limiting freedom enjoyed by Hong Kong residents (Albert, 2019; Amnesty International, 2019). Against this backdrop, the Extradition Bill had been regarded by the pan-democratic camp and many others both overseas and locally as another measure from Beijing to further restrict the freedom of Hong Kong residents (Lum & Chung, 2019). To put it simply, the timing for the introduction of the Extradition Bill had been inappropriate and it became the last straw which had led to the explosion of public anxiety, and therefore, the “Anti-extradition Movement”.

#### IV. Conclusion

The fundamental reason for the occurrence of the “Anti-extradition Movement” is, as discussed above, the lack of mutual trust between Hong Kong people and mainland China, which has been worsened by a series of events which happened after the “Occupying Central” movement. The Extradition Bill is simply the last straw. The Hong Kong Government should have made an effort to establish greater mutual trust. Instead, it had worsened the mutual relationship between Hong Kong people and mainland China by expediting the legislative process of the Extradition Bill. The Hong Kong Government should make the establishment of mutual trust between Hong Kong people and the Mainland one of the key considerations in making any important decisions concerning relationship with mainland China. After the decision by the Government to formally withdraw the Extradition Bill, it is impossible for the Government to propose again the case-by-case extradition in the foreseeable future. An opportunity to facilitate the conclusion of a long-

term extradition agreement between Hong Kong and mainland China has thus been lost. However, since fighting against cross-border crimes is a goal shared by Hong Kong’s society, it is possible for the Government to introduce measures to cover only extradition of mainland criminal offenders in Hong Kong. With such explicit limited scope, there is a possibility for it to be accepted. In the meantime, the Government should start consultation and also negotiation on a long-term extradition agreement with mainland China.

With hindsight, mainland China could also do better by addressing the concerns of Hong Kong people and contribute to the establishment of mutual trust. Statements to support the Extradition Bill by senior Chinese officials had worsened Hong Kong people’s suspicion that the real motive behind the Extradition Bill was to make possible extradition from Hong Kong to mainland China. Had Chinese officials been more skillful by saying that mainland China will not support the Extradition Bill without the support of the Hong Kong people, the situation might be quite different. The detailed examination of legal issues relating to the Extradition Bill proves that the draft legislation was well-intentioned and well-drafted, and the introduction of case-by-case extradition can complement the existing legal mechanism on long-term surrender of fugitive offenders. However, the good intention of the Chief Executive and well-drafted Extradition Bill became meaningless if the Hong Kong Government could not convince Hong Kong people of her good intention and the necessity as well as value of the Extradition Bill. Nor can the legislation be successful if the timing is not correct. Law and legal arguments have their limits. Legislative process is both legal and political. When some political groups representing one side in local politics in Hong Kong managed to mobilize successfully sufficient ordinary Hong Kong people against the Extradition Bill, legal arguments reach their limits and have to give way to politics.

## V. Bibliography

- ALBERT, E. (2019, September 30). Democracy in Hong Kong. *Council on Foreign Relations*. Retrieved from <https://www.cfr.org/backgrounder/democracy-hong-kong>
- AMNESTY INTERNATIONAL. (2019). *Beijing's "red line" in Hong Kong: Restrictions on rights to peaceful assembly and freedom of expression and association* (ASA 17/0944/2019). Retrieved from London: <https://www.amnesty.org/download/Documents/ASA1709442019ENGLISH.PDF>
- AMNESTY INTERNATIONAL HONG KONG, HONG KONG HUMAN RIGHTS MONITOR, & HUMAN RIGHTS WATCH (2019, March 30). Re: Proposed

- changes to Hong Kong’s extradition laws [open letter]. *Amnesty International Hong Kong*. Retrieved from <https://www.amnesty.org.hk/wp-content/uploads/2019/03/Letter-to-CE-on-EXTRADITION-LAW-20190331.PDF>
- CHAN, H. (2019, November 25). Hong Kong protests: Chinese University campus reopens after tear gas and petrol bomb carnage, with some wearing masks fearing toxic threat. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/education/article/3039263/hong-kong-protests-chinese-university-campus-reopens-after>
- CHAN, H. (2019a, March 31). In Pictures: 12,000 Hongkongers march in protest against ‘evil’ China extradition law, organisers say. *Hong Kong Free Press*. Retrieved from <https://www.hongkongfp.com/2019/03/31/pictures-12000-hongkongers-march-protest-evil-china-extradition-law-organisers-say/>
- CHAN, H. (2019b, March 5). ‘Jumping the gun’: Barristers, scholars and democrats oppose update to Hong Kong extradition law as consultation ends. *Hong Kong Free Press*. Retrieved from <https://www.hongkongfp.com/2019/03/05/jumping-gun-barristers-scholars-democrats-oppose-update-hong-kong-extradition-law-consultation-ends/>
- CHAN, H. (2019c, May 25). More int’l criticism of Hong Kong’s controversial extradition bill, as legislature caves to gov’t demands. *Hong Kong Free Press*. Retrieved from <https://www.hongkongfp.com/2019/05/25/intl-criticism-hong-kongs-controversial-extradition-bill-legislature-caves-govt-demands/>
- CHAN, H. (2019d, February 14). Plans to update Hong Kong-China extradition law under fire as security chief says no public consultation needed. *Hong Kong Free Press*. Retrieved from <https://www.hongkongfp.com/2019/02/14/plans-update-extradition-hong-kong-china-extradition-law-fire-security-chief-says-no-public-consultation-needed/>
- CHAU, P., & LAM, S. (2001). *Research study on the agreement between Hong Kong and the Mainland concerning surrender of fugitive offenders* (RP05/00-01). Retrieved from Hong Kong: <https://www.legco.gov.hk/yr00-01/english/library/erp05.pdf>
- CHEUNG, E., & GRIFFITHS, J. (2019, April 9). Leaders of Hong Kong's Umbrella Movement found guilty for role in protests. *CNN*. Retrieved from <https://edition.cnn.com/2019/04/08/asia/hong-kong-occupy-umbrella-protests-trial-intl/index.html>

- CHEUNG, G. (2019, August 14). Extradition bill crisis: how the Hong Kong government had the ‘perfect’ listening mechanisms, but turned a deaf ear to public sentiment. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3022657/extradition-bill-crisis-case-study-how-hong-kong-government>
- CHEUNG, G., LAM, J., & LEUNG, C. (2019, October 9). Four months of Hong Kong protests: how peaceful mass marches escalated to intense violence, a bitterly divided society and a loss of innocence. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3032073/innocence-lost-how-hong-kong-fell-peaceful-mass-marches>
- CHEUNG, T., CHEUNG, G., SUM, L., & LUM, A. (2019, May 24). 11 EU representatives meet Hong Kong leader Carrie Lam to protest against controversial extradition bill as government gathers 100 officials to build united front. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3011627/hong-kong-government-gathers-100-officials-meeting-build>
- CHEUNG, T., CHUNG, K., SUM, L., & CHEUNG, G. (2019, October 5). Hong Kong leader rolls out emergency mask law to quell anti-government protests. Defiant residents take to streets and night of violent destruction ensues. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3031657/hong-kong-leader-rolls-out-emergency-mask-law-quell-anti>
- CHEUNG, T., & NG, K.. (2019, June 16). When suspending Hong Kong’s extradition bill versus withdrawing it has a different meaning politically and legally but the same outcome: Death of the legislation. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3014732/when-suspending-hong-kongs-extradition-bill-versus>
- CHING, F. (2019, May 20). Hong Kong: China demands right to extradite. *EJ Insight*. Retrieved from <http://www.ejinsight.com/20190520-hong-kong-china-demands-right-to-extradite/>
- CHUNG, K. (2019, May 21). Beijing declares full support for Hong Kong leader Carrie Lam over controversial extradition bill. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3011155/beijing-steps-support-hong-kong-leader-carrie-lam-over>

- CREERY, J. (2019a, June 25). Exclusive: Pro-Beijing lawmaker Regina Ip on Hong Kong’s extradition row and history repeating itself. *Hong Kong Free Press*. Retrieved from <https://www.hongkongfp.com/2019/06/25/exclusive-pro-beijing-lawmaker-regina-ip-hong-kongs-extradition-row-history-repeating/>
- CREERY, J. (2019b, June 9). Over a million attend Hong Kong demo against controversial extradition law, organisers say. *Hong Kong Free Press*. Retrieved from <https://www.hongkongfp.com/2019/06/09/just-no-china-extradition-tens-thousands-hong-kong-protest-controversial-new-law/>
- CROSS, G. (2019a, June 12). Fugitive surrender: Rights and responsibilities. *China Daily Hong Kong*. Retrieved from <https://www.chinadailyhk.com/articles/186/73/64/1560307116859.html>
- CROSS, G. (2019b, July 11). ‘One country, two systems’ is under attack, and Hong Kong must uphold the rule of law more than ever. *South China Morning Post*. Retrieved from <https://www.scmp.com/comment/opinion/article/3017825/one-country-two-systems-under-attack-and-hong-kong-must-uphold-rule>
- EXTRADITION LAWS WILL BOOST RULE OF LAW: HAN ZHENG. (2019, May 21). *RTHK*. Retrieved from <https://news.rthk.hk/rthk/en/component/k2/1458612-20190521.htm>
- FERNANDO, G. (2019, August 23). ‘One country, two systems’: Why a simple agreement coined decades ago failed in Hong Kong. *news.com.au*. Retrieved from <https://www.news.com.au/world/asia/one-country-two-systems-why-a-simple-agreement-coined-decades-ago-failed-in-hong-kong/news-story/38ab69bb86bb6580462d0ef51eeae86f>
- FUGITIVE OFFENDERS AND MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS LEGISLATION ( AMENDMENT ) BILL 2019, C491, HKSAR (2019). Retrieved from <https://www.legco.gov.hk/yr18-19/english/bills/b201903291.pdf>
- GOVERNMENT OF THE HKSAR. (2019a). Government response to procession [press release]. Retrieved from <https://www.info.gov.hk/gia/general/201906/09/P2019060900587.htm>
- GOVERNMENT OF THE HKSAR. (2019b). *Why amend the legislation?* Retrieved from [https://www.sb.gov.hk/eng/special/cooperation/Q&A/FOO%20nd\\_booklet\\_EN.pdf](https://www.sb.gov.hk/eng/special/cooperation/Q&A/FOO%20nd_booklet_EN.pdf)
- GRIFFITHS, J., CHEUNG, E., & LEE, C. (2019, June 10). More than 1 million protest in Hong Kong, organizers say, over Chinese extradition law.



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and Power of Politics

LIN FENG

- CNN. Retrieved from <https://edition.cnn.com/2019/06/08/asia/hong-kong-extradition-bill-protest-intl/index.html>
- GUEST CONTRIBUTOR. (2019, March 7). An update to Hong Kong’s extradition law with China could be crippling for human rights – especially for foreigners. *Hong Kong Free Press*. Retrieved from <https://www.hongkongfp.com/2019/03/07/update-hong-kongs-extradition-law-china-crippling-human-rights-especially-foreigners/>
- HE, S.. (2019, April 17). Joint petition launched to support SAR’s extradition law amendments. *China Daily Hong Kong*. Retrieved from <https://www.chinadailyhk.com/articles/6/54/251/1555475575034.html>
- HKBA. (2019a). *A brief guide to issues arising from the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 (“The Bill”)*. Retrieved from Hong Kong: <https://www.hkba.org/sites/default/files/A%20Brief%20Guide%20to%20issues%20arising%20from%20the%20Fugitive%20Offenders%20And%20Mutual%20Legal%20Assistance%20in%20Criminal%20Matters%20Legislation%20%28Amendment%29%20Bill%202019%20%28%E2%80%9CThe%20Bill%E2%80%9D%29.pdf>
- HKBA. (2019b). *Observations of the Hong Kong Bar Association (“HKBA”) on the Security Bureau’s proposal to amend the Mutual Legal Assistance in Criminal Matters Ordinance, Cap. 525 (“MLAO”) and the Fugitive Offenders Ordinance, Cap.503 (“FOO”)*. Retrieved from Hong Kong: <https://www.hkba.org/sites/default/files/Security%20Bureau%27s%20%20Proposal%20to%20Amend%20the%20Mutual%20Legal%20Assistance%20in%20Criminal%20Matters..Fugitive.FOO%20and%20MLA%20%28Final%29%28website%29.pdf>
- HKFP. (2019a, July 1). Hong Kong protesters occupy legislative chamber after smashing windows, vandalising corridors. *Hong Kong Free Press*. Retrieved from <https://www.hongkongfp.com/2019/07/01/breaking-hong-kong-protesters-storm-legislature-breaking-glass-doors-prying-gates-open/>
- HKFP. (2019b, July 1). Organisers say 550,000 attend annual July 1 democracy march as protesters occupy legislature. *Hong Kong Free Press*. Retrieved from <https://www.hongkongfp.com/2019/07/01/breaking-organisers-say-550000-attend-annual-july-1-democracy-march-amid-clashes-rear-legislature/>
- HOLLINGSWORTH, J. (2019, June 12). Hong Kong police declare China extradition protest 'a riot' as rubber bullets and tear gas fired at crowd.

- CNN. Retrieved from <https://edition.cnn.com/2019/06/12/asia/hk-protests-extradition-intl-hnk/index.html>
- HUI, M. (2019, June 14). Why foreign governments are so worried about Hong Kong's extradition law. *Quartz*. Retrieved from <https://qz.com/1643858/foreign-governments-are-worried-about-hong-kongs-extradition-law/>
- IP, R. (2019, June 2). Three reasons Hong Kong's extradition bill should garner support from foreign governments. *South China Morning Post*. Retrieved from <https://www.scmp.com/comment/opinion/article/3012597/three-reasons-hong-kongs-extradition-bill-should-garner-support>
- JUSTICE CENTRE HONG KONG. (2019). *Submissions on cooperation between Hong Kong and other places on juridical assistance in criminal matters*. Retrieved from Hong Kong: <http://www.justicecentre.org.hk/framework/uploads/2019/03/2019-03-04-Submission-to-Security-Bureau-on-Mutual-Legal-Assistance-Proposals-1.pdf>
- LAM, J. (2019a, June 19). Can Carrie Lam reboot her political career after Hong Kong extradition bill crisis? *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3015099/promises-and-clothes-hark-back-her-election-hong-kong>
- LAM, J. (2019b, June 2). Hong Kong extradition bill: security chief John Lee says he expects Beijing to keep its promises on human rights safeguards. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3012778/hong-kong-extradition-bill-security-chief-john-lee-says-he>
- LAU, C., & CHAN, H. (2019, December 11). Hong Kong Polytechnic University reopens to some staff and students, weeks after its descent into protest war zone. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3041524/hong-kong-polytechnic-university-reopen-some-staff-and>
- LAU, C., SUM, L., & ZHANG, K. (2019, October 23). Hong Kong murder suspect at centre of extradition bill crisis begs for public forgiveness upon release from jail. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/law-and-crime/article/3034128/hong-kong-murder-suspect-chan-tong-kai-who-triggered>

- LAW CHANGE PLUGS LOOPHOLE. (2019, April 3). *news.gov.hk*. Retrieved from [https://www.news.gov.hk/eng/2019/04/20190403/20190403\\_114343\\_518.html](https://www.news.gov.hk/eng/2019/04/20190403/20190403_114343_518.html)
- LAW SOCIETY OF HONG KONG. (2019). *The Law Society of Hong Kong Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 Submission*. Retrieved from Hong Kong: [http://www.hklawsoc.org.hk/pub\\_e/news/submissions/20190605.pdf](http://www.hklawsoc.org.hk/pub_e/news/submissions/20190605.pdf)
- LEGCO. (1998). *LegCo panel on security arrangements with the Mainland on surrender of fugitive offenders (For discussion on 3 December 1998)*. (LC Paper No. CB(2) 748/98-99(02)). Retrieved from <https://www.legco.gov.hk/yr99-00/english/panels/se/papers/748e02.pdf>
- LEUNG, C., & TING, V. (2019, July 22). Hong Kong police chief defends officers arriving 35 minutes after first reports of Yuen Long mob violence against protesters and MTR passengers. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/law-and-crime/article/3019657/hong-kong-police-chief-defends-officers-arriving-35>
- LEUNG, K., SU, XINQI, & SUM, L.. (2019, June 15). Hong Kong protest organisers vow to press ahead with Sunday march despite government backing down on extradition bill – but Monday’s strike is off. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3014643/hong-kong-protest-organisers-vow-press-ahead-sunday-march>
- LI, L., & CHENG, T.. (2019, October 10). Taiwan's Tsai: China's 'one country, two systems' model has failed. *Nikkei Asian Review*. Retrieved from <https://asia.nikkei.com/Politics/Taiwan-s-Tsai-China-s-one-country-two-systems-model-has-failed>
- LO, K. (2019, June 13). Chinese ambassador to Britain rejects claims that Beijing had a hand in Hong Kong extradition bill. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/china/diplomacy/article/3014358/no-extradition-law-order-beijing-chinese-ambassador-rejects>
- LUM, A., & CHUNG, K. (2019, February 13). Fugitives should only be extradited to Taiwan, not mainland China, Hong Kong opposition lawmakers and lawyers’ group urge government. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/2186045/strike-extradition-deal-solely-taiwan-instead-changing>

- LUM, A., & SUM, L.. (2019, May 31). Hong Kong extradition bill will not have safeguards and fair trial guarantee built in. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3012611/no-guarantee-fair-trial-hong-kong-extradition-bill>
- MOK, F. (2019, June 21). Hong Kong protests: How did we get here? *The Diplomat*. Retrieved from <https://thediplomat.com/2019/06/hong-kong-protests-how-did-we-get-here/>
- NPCSC. (1999). *The interpretation by the Standing Committee of the National People’s Congress of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (Adopted at the tenth session of the Standing Committee of the ninth National People’s Congress on 26 June 1999)*. Retrieved from [https://www.basiclaw.gov.hk/en/basiclawtext/images/basiclawtext\\_doc17.pdf](https://www.basiclaw.gov.hk/en/basiclawtext/images/basiclawtext_doc17.pdf)
- NPCSC. (2016). *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 (Adopted by the Standing Committee of the twelfth National People’s Congress at its twenty-fourth session on 7 November 2016)*. Retrieved from [https://www.basiclaw.gov.hk/en/basiclawtext/images/basiclawtext\\_doc25.pdf](https://www.basiclaw.gov.hk/en/basiclawtext/images/basiclawtext_doc25.pdf)
- POMFRET, J. (2019, May 24). EU lodges formal diplomatic note against contentious Hong Kong extradition bill. *Reuters*. Retrieved from <https://www.reuters.com/article/us-hongkong-extradition-eu/eu-lodges-formal-diplomatic-note-against-contentious-hong-kong-extradition-bill-idUSKCN1SU00S>
- RIFKIND, M. (2019, June 4). There is no ‘loophole’ in Hong Kong’s current extradition law. Rather, it provides a necessary firewall to protect the legal system. *South China Morning Post*. Retrieved from <https://www.scmp.com/comment/opinion/article/3012853/there-no-loophole-hong-kongs-current-extradition-law-rather-it>
- RONNY TONG LAMENTS JUSTICE HAS LOST TO POLITICS. (2019, June 16). *RTHK*. Retrieved from <https://news.rthk.hk/rthk/en/component/k2/1463144-20190616.htm>
- RUWITCH, J., & PANG, J. (2019, July 1). Hong Kong police fire tear gas in running battles after protesters trash legislature. *Reuters*. Retrieved from <https://www.reuters.com/article/us-hongkong-extradition/hong-kong-protesters-smash-up-legislature-in-direct-challenge-to-china-idUSKCN1TV0YE>

- SCMP REPORTER. (2005, March 10). Tung Chee-hwa officially resigns. *South China Morning Post*. Retrieved from <https://www.scmp.com/article/491991/tung-chee-hwa-officially-resigns>
- SCMP REPORTERS. (2019a, June 16). As it happened: A historic day in Hong Kong concludes peacefully as organisers claim almost 2 million people came out in protest against the fugitive bill. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3014695/sea-black-hong-kong-will-march-against-suspended>
- SCMP REPORTERS. (2019b, June 15). As it happened: Carrie Lam backs down and ‘suspends’ Hong Kong extradition bill, sets no new time frame. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3014638/hong-kong-extradition-bill-carrie-lam-hit-pause-button>
- SCMP REPORTERS. (2019c, June 12). As it happened: Hong Kong police and extradition protesters renew clashes as tear gas flies. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3014104/thousands-block-roads-downtown-hong-kong-defiant-protest>
- SCMP REPORTERS. (2019d, September 4). Hong Kong leader Carrie Lam announces formal withdrawal of the extradition bill and sets up a platform to look into key causes of protest crisis. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3025641/hong-kong-leader-carrie-lam-announce-formal-withdrawal>
- SCMP REPORTERS. (2019e, June 17). ‘Nearly 2 million’ people take to streets, forcing public apology from Hong Kong leader Carrie Lam as suspension of controversial extradition bill fails to appease protesters. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3014737/nearly-2-million-people-take-streets-forcing-public-apology>
- SECURITY BUREAU OF HKSAR. (2019a). *Cooperation between Hong Kong and other places on juridical assistance in criminal matters*. Hong Kong Retrieved from [https://www.sb.gov.hk/eng/special/pdfs/Information%20Paper\\_Eng\\_190212.pdf](https://www.sb.gov.hk/eng/special/pdfs/Information%20Paper_Eng_190212.pdf)
- SECURITY BUREAU OF HKSAR. (2019b). *Legislative Council brief Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation ( Amendment ) Bill 2019*. ( SBCR 1/2716/19 ). Hong Kong Retrieved from

[https://www.legco.gov.hk/yr18-19/english/bills/brief/b201903291\\_brf.pdf](https://www.legco.gov.hk/yr18-19/english/bills/brief/b201903291_brf.pdf)

- STATE COUNCIL INFORMATION OFFICE OF THE PEOPLE’S REPUBLIC OF CHINA. (1991). *zhongguo de renquan zhuangkuang 中国的人权状况 [Human rights conditions of China]* [white paper]. Retrieved from [http://www.gov.cn/zwgk/2005-05/24/content\\_488.htm](http://www.gov.cn/zwgk/2005-05/24/content_488.htm)
- SU, X. (2019, May 11). Mainland Chinese officials come out in support of Hong KONG’S controversial extradition law. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3009848/mainland-chinese-officials-come-out-support-hong-kongs>
- SUM, L.. (2019, May 28). Hong Kong extradition bill: government looks at allowing prison terms to be served in city. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3012191/hong-kong-extradition-bill-government-looks-allowing-prison>
- SUM, L., & LUM, A. (2019, May 29). Hong Kong extradition bill: lawyers announce rare silent protest as city’s leader Carrie Lam survives no confidence vote. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3012330/hong-kong-extradition-bill-lawyers-announce-rare-silent>
- SUM, L., & NG, K.. (2019, April 28). Estimated 130,000 protesters join march against proposed extradition law that will allow transfer of fugitives from Hong Kong to mainland China. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3007999/thousands-set-join-protest-march-against-proposed>
- TING, V. (2019, October 8). At least 77 arrested over anti-mask law, as Hong Kong police say weekend of protest unrest marked by ‘sharp escalation in vandalism and property destruction’. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3032069/least-77-arrested-over-anti-mask-law-hong-kong-police-say>
- TONG, R. (2019, July 10). Hong Kong extradition protesters made five demands of Carrie Lam. Believe it or not, they have been heard. *South China Morning Post*. Retrieved from <https://www.scmp.com/comment/opinion/article/3017719/hong-kong-extradition-protesters-made-five-demands-carrie-lam>
- TORODE, G., & POMFRET, J. (2019, May 29). Exclusive: Hong Kong judges see risks in proposed extradition changes. *Reuters*. Retrieved from

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and Power of Politics

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<https://www.reuters.com/article/us-hongkong-politics-extradition-judges/exclusive-hong-kong-judges-see-risks-in-proposed-extradition-changes-idUSKCN1SZ09U>

- VICTOR, D., & MAY, T. (2019, June 15). The murder case that lit the fuse in Hong Kong. *The New York Times*. Retrieved from <https://www.nytimes.com/2019/06/15/world/asia/hong-kong-murder-taiwan-extradition.html>
- WILKINSON, B. (2018, October 5). Hong Kong refuses to renew British journalist's visa, raising fears for press freedom. *CNN*. Retrieved from <https://edition.cnn.com/2018/10/05/asia/hong-kong-visa-refusal-fcc-intl/index.html>
- WONG, T.. (2019, August 20). Hong Kong protests: What are the 'five demands'? What do protesters want? *South China Morning Post Young Post*. Retrieved from <https://yp.scmp.com/hongkongprotests5demands>
- WONG, B. (2019, October 18). Can Beijing and Hong Kong rejuvenate ‘one country, two systems’? *The Diplomat*. Retrieved from <https://thediplomat.com/2019/10/can-beijing-and-hong-kong-rejuvenate-one-country-two-systems/>
- XINHUA. (2019). Han Zheng -- Member of Standing Committee of Political Bureau of CPC Central Committee [press release]. Retrieved from [http://www.xinhuanet.com/english/2017-10/25/c\\_136705571.htm](http://www.xinhuanet.com/english/2017-10/25/c_136705571.htm)
- YAU, C. (2019, October 20). Hong Kong leader Carrie Lam pledges other options if police conduct probe cannot quell public anger at force handling of anti-government protests. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3033753/hong-kong-leader-carrie-lam-pledges-other-options-if-police>
- ZHANG, K. (2019a, May 23). CPPCC leader voices support for extradition bill. *China Daily*. Retrieved from [http://www.chinadaily.com.cn/hkedition/2019-05/23/content\\_37472806.htm](http://www.chinadaily.com.cn/hkedition/2019-05/23/content_37472806.htm)
- ZHANG, K. (2019b, February 22). HKNP officially banned as CE dismisses appeal. *China Daily Hong Kong*. Retrieved from <https://www.chinadailyhk.com/articles/94/97/201/1550769175482.html>
- ZHAO, S. (2017, July 14). Oath-taking antics: The acts that got six Hong Kong lawmakers disqualified. *South China Morning Post*. Retrieved from <https://www.scmp.com/news/hong-kong/law-crime/article/2102731/oath-taking-antics-acts-got-six-hong-kong-lawmakers>

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Power of Politics

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ZHENG, R.. (2019, February 15). You Zhang Ziqiang an chufa, Ye Liu:  
dangnian Beijing bu jieshou Xianggang yaoqiu 由張子強案觸發,葉劉:  
當年北京不接受香港要求.