

WRITING ON THE WALL

Disappeared Booksellers and
Free Expression in Hong Kong



PEN
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**The Freedom
to Write**

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Disappeared Booksellers and Free Expression in Hong Kong

November 5, 2016

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PEN America stands at the intersection of literature and human rights to protect open expression in the United States and worldwide. We champion the freedom to write, recognizing the power of the word to transform the world. Our mission is to unite writers and their allies to celebrate creative expression and defend the liberties that make it possible.

Founded in 1922, PEN America is the largest of more than 100 centers of PEN International. Our strength is in our membership—a nationwide community of more than 4,000 novelists, journalists, poets, essayists, playwrights, editors, publishers, translators, agents, and other writing professionals. For more information, visit pen.org.

Cover photograph: Artist Kacey Wong protests the Causeway Bay Books disappearances bound and gagged, sporting a red noose bearing the Chinese characters for "abduction." The sign in his hand says "Hostage is well." Photo courtesy of Kacey Wong.

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EXECUTIVE SUMMARY

“One Country, Two Systems” Under Threat

The disappearance of five Hong Kong booksellers in late 2015 sent a jolt through the literary community in Hong Kong, the publishing industry internationally, human rights advocates, and the diplomatic sphere. Businesspeople, authors, journalists, and envoys have long been accustomed to Hong Kong as a city of freedom and openness in a region that is marked by turmoil and political repression. Hong Kong has served as a portal into and out of mainland China, an opening where people, ideas, books, films, and businesses can transit, keeping China connected to the world and affording the Chinese people access to some of what they are missing in their tightly controlled society.

When the former British colony was returned in 1997 to the People’s Republic of China (PRC), the reversion came with the promise to sustain a scheme of “one country, two systems”, and maintain the open commercial, intellectual, and cultural character of Hong Kong. These liberties and the autonomy of Hong Kong are enshrined in its Basic Law, which took effect in 1997. For the residents of Hong Kong, the Basic Law and system of government have provided a screen of protection, though one that has grown more frayed in recent years as Beijing has exerted greater control over Hong Kong’s media and governance.

When it became clear that the Chinese government had forcibly kidnapped five Chinese sellers of potboiler political books – apprehending them in Hong Kong, during visits to the mainland, and, in the case of Gui Minhai, while vacationing in Thailand – the sense of security attached to Hong Kong’s protected status was shaken. As detailed by PEN America in “Writing on the Wall: Disappeared Booksellers and Free Expression in Hong Kong,” the booksellers’ disappearances were a vivid indication that the long arm of the Chinese security state could and would reach into Hong Kong and beyond. The ambiguity of the case, the questionable nature of criminal charges, and the absence of any indication that these specific booksellers were engaged in anything beyond standard commercial activity in Hong Kong—albeit with books that depicted Chinese leaders in an unflattering light—has cast a chill on book publishing. The mysteries and uncertainties of the case leave a lingering doubt about what conduct can put authors, publishers, and booksellers at risk, instilling fear and further caution that will narrow the range of ideas and stories emanating from Hong Kong. For international publishing and media representatives, these developments call into question whether Hong Kong can continue to serve as the steady host and anchor on which they have long relied for business across Asia.

Various specific facets of the case, outlined by PEN America in this report, bring to light China’s evolving approach to quashing dissent, controlling narratives, and enforcing its will not just within its borders but also outside them. The brazen use of forced confessions and coerced statements appeared to be targeted less at persuading domestic and international audiences of the booksellers’ guilt than at sowing sufficient doubt to harm the men’s reputations, raising questions about what they wished their supporters to do on their behalf, and deflecting international concern. By including in those forced confessions disavowals of foreign national ties, China offered an out to foreign governments that might be interested in avoiding confrontation. The treatment of Swedish citizen Gui Minhai and UK dual national Lee Bo fits part of a pattern whereby China has exerted its control over ethnic Chinese who have fled to, or are residing in, foreign countries. Acting without the legitimacy of extradition treaties or other legal instruments, China has used the reach of its security apparatus to apprehend ethnic Chinese on foreign soil without due process and to pressure foreign governments to look the other way and, in some cases, even assist in such efforts.

The intense global outcry that followed the bookseller disappearance was followed by the release of four of the five apprehended men. However, only one—Lam Wing-kee—has gone public with his ordeal. The others are silent. The fifth man, Gui Minhai, the Swedish citizen, remains incommunicado in custody. While international pressure may have been a factor in China’s decision to release most of the men, there are also signs that geopolitical interests may have tempered the fervor of diplomatic campaigns for their release. The swift release of another Swedish political detainee, human rights worker Peter Dahlin, while Gui Minhai remains in custody raises important questions about how ethnicity and nationality play into human rights cases.

China is well known for its restrictions on freedom of expression and intolerance of dissent at home. The Chinese people are on high alert that criticism of the government, independent thinking, and challenges to official narratives are dangerous. Increasingly, though, and particularly for ethnic Chinese, the safety afforded by operating outside mainland China’s borders may no longer be as reliable as it once was. Dissidents, human rights activists, and their allies need to be cognizant of China’s growing willingness to defy sovereignty and legal norms in order to work its will in punishing and

detering criticism beyond its borders. Foreign governments need to steel themselves to Chinese tactics, including the use of forced confessions and appeals to ethnicity that seek to temper governments' criticism and advocacy on behalf of their nationals. China's geopolitical importance and the depth of its bilateral ties in Asia and worldwide can deter criticism by governments that do not want to rouse Beijing's anger. But, as the booksellers case shows, Beijing is not impervious to international outcry and is keenly cognizant of where and by whom its actions will be judged. This case is a reminder that all those who engage with China must keep their eyes open to Beijing's goals and tactics and stand firm in the face of Chinese efforts to undermine the international system and the norms and values on which it rests.

Hong Kong's Legal Framework

This section provides a concise legal overview of Hong Kong's "one country, two systems" framework. This serves as the basis for the political, social, and economic policies and practices, ranging from free expression rights to trade policies, for the autonomous territory of Hong Kong during the 50-year period following its handover to China in 1997. These differ in crucial respects from the policies and practices applicable in mainland China.

The Sino-British Joint Declaration of 1984

The Joint Declaration serves as the international law foundation for Hong Kong's governance as a "special administrative region" within China. Article 3 and Annex I establish China's "basic policies" toward Hong Kong and guarantee specific rights for individuals within the territory.¹ Under Article 3(12), these basic policies shall "remain unchanged for 50 years" after the resumption of Chinese sovereignty.

Article 3(5) provides that rights and freedoms, including those of the person, of speech, and of the press, "will be ensured by law in the Hong Kong Special Administrative Region." This provision is supplemented by Annex I, Part XIII, which requires the Hong Kong government to "maintain the rights and freedoms as provided for by the laws previously in force in Hong Kong," including freedom of the person, of speech, and of the press. Annex I, Part XIII further declares that the provisions of the International Covenant on Civil and Political Rights applicable to Hong Kong prior to 1997 "shall remain in force."

The Basic Law

The Basic Law is Hong Kong's constitutional document. Drawn up pursuant to Article 3(12) of the Joint Declaration, it expands on the basic policies laid down in the Joint Declaration and defines the powers and duties of the Hong Kong and Beijing governments.

Chapter II defines the relationship between the Hong Kong and Beijing governments. Under Article 18(2), national laws "shall not be applied" within Hong Kong except for any laws listed within Annex III. Article 18(3) further provides that laws listed in Annex III shall be confined to matters outside Hong Kong's autonomy. Article 22 imposes strict limits on the ability of Beijing governmental authorities to operate in Hong Kong. Article 22(1) states:

No department of the Central People's Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law.

Mainland authorities may establish offices in Hong Kong but must obtain the consent of the Hong Kong government and comply with Hong Kong law.²

Chapter III enshrines the fundamental rights of Hong Kong residents. In particular, freedom of the person is guaranteed by Article 28, which states:

The freedom of the person of Hong Kong residents shall be inviolable.

No Hong Kong resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment. Arbitrary or unlawful search of the body of any resident or deprivation or restriction of the freedom of the person shall be prohibited. Torture of any resident or arbitrary or unlawful deprivation of the life of any resident shall be prohibited.

Article 27, which protects freedom of the press, states:

Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and demonstration; and the right and freedom to form and join trade unions, and strike.

Article 39 further states that the provisions of the International Covenant on Civil and Political Rights (ICCPR) as applied to Hong Kong shall remain in force. Since 1991, the ICCPR has been expressly incorporated into Hong Kong domestic law by the Bill of Rights Ordinance (BORO). As this report discusses further, these explicit assurances of the applicability of the ICCPR enshrine the right of Hong Kong citizens to legal guarantees and protections for their fundamental human rights, including freedom of expression.

Report Methodology and Structure

PEN America's report "Writing on the Wall: Disappeared Booksellers and Free Expression in Hong Kong" brings together a wide range of primary and secondary sources to produce a comprehensive analysis of the case and its implications. The research team reviewed an extensive array of news coverage, reports from civil society organizations such as the Hong Kong Journalists Association, and other secondary material; engaged in correspondence with organs of the British and Swedish governments as well as of the European Union; and conducted in-person meetings, telephone and Skype interviews, and email exchanges with publishers, authors, journalists, lawyers, scholars, diplomats, government officials, legislators, human rights advocates, and other stakeholders, including the only bookseller to have gone public with his abduction and detention, Lam Wing-kee. All interviews were conducted between August and October of 2016. The report also relies on Lam's press conference transcript, his detailed written account, and the statements and testimony of others connected to the booksellers' story.

PEN America also made efforts to speak with various agencies within the Hong Kong government, contacting the Hong Kong Police Force, the Security Bureau, the Office of the Chief Executive, the Office of the President of the Legislative Council, and the Information Services Department. The Directorate of the Information Services Department referred our inquiry to an official within the Security Bureau, which referred us to published information on the Secretary for Security's July 2016 response to the Legislative Council,³ as well as to other information that was publicly reported by the government of the Hong Kong Special Administrative Region (SAR). The Security Bureau (when contacted directly) and the Police Public Relations Branch declined to comment. Chief Executive Leung Chun-Ying and (now former) president of the Legislative Council Jasper Tsang declined PEN America's request for an interview.

The report is divided into an Executive Summary and seven main parts:

- The Executive Summary provides an overview of the report's main findings and of Hong Kong's relevant legal framework under "one country, two systems," providing context for assessing the legal and political implications of China's actions in the case of the Causeway Bay booksellers.
- Part I, Troubled Harbor for Free Expression, offers background on Hong Kong's publishing industry, including a review of Beijing's efforts to shut down the production and sale of books in Hong Kong that are banned on the mainland but popular among Chinese customers traveling through Hong Kong.
- Part II, Timeline of the Disappearances, continues with a detailed chronological overview of the facts known with regard to the disappearances and reemergence of the five booksellers.
- Part III, Confronting the Threat to Hong Kong's Autonomy, reviews the reactions to the disappearances, from the tepid response of Hong Kong's government to the outcry from Hong Kong's populace and the reaction of several relevant international actors—Sweden, the United Kingdom, the European Union, and the United States
- Part IV, A Chill in the Air, examines the broader impact of the disappearances: the chilling effect it has had not only on the publishing world in Hong Kong but also more broadly among residents, as well as the damage it has caused to Hong Kong's faith in the "one country, two systems" framework.

- Part V, China's expanding Reach, analyzes the ways this case exemplifies broader trends in how China is extending its reach to repress political dissent and expression not only on the mainland but also increasingly in Hong Kong and third countries. It examines the increasing prevalence of forced confessions, concerns that Hong Kong's media is being co-opted to promote Beijing's narrative, and the projection of China's restrictive policies abroad to silence critics.
- Part VI, Human Rights in Retreat, reviews how the booksellers case represents not only an attack on free expression but also a set of serious human rights violations committed against the Hong Kong booksellers.
- Finally, Part VII, Upholding Free Expression in Hong Kong, presents conclusions about the short and long term repercussions of the booksellers case, and offers specific recommendations to authorities in Hong Kong, the PRC, foreign governments, and the international community, including the media and human rights mechanisms, aimed at upholding Hong Kong's legal status as a safe harbor for free expression and freedom of the press.

TROUBLED HARBOR FOR FREE EXPRESSION

Background on Hong Kong's Independent Publishing Industry

Hong Kong, a small territory of slightly more than 7 million people, has boasted a vibrant and diverse book publishing scene that makes it one of the largest literary markets in Asia.⁴ As of June 2015, Hong Kong possessed more than 4,000 publishing and printing establishments, employing more than 35,000 people.⁵ A 2014 government estimate put the publishing sector's financial contribution to Hong Kong at HK\$14 billion (approximately \$1.8 billion).⁶

Hong Kong's publishing scene is positioned as the gateway to Chinese audiences, particularly given not only Hong Kong's exemption from Chinese censorship guidelines but, relatedly, Hong Kong's ability to publish and sell books that are banned within mainland China.⁷ Today, visitors from the mainland represent a large segment of the market for Hong Kong publishers and booksellers.

In the mid-1990s, mainlanders began to take more trips abroad, often transiting through Hong Kong. In 2003, the Chinese government further eased travel restrictions, allowing mainlanders to travel to Hong Kong independently as tourists rather than being restricted to tour groups.⁸ In 2004, 12 million mainlanders visited Hong Kong;⁹ by 2015, that number had climbed to nearly 46 million.¹⁰

In Hong Kong, these mainlanders have access to books that are not available for purchase within the rest of China. One subset of these "illegal" books is known in China as *zhengzhi baguashu*, or "gossipy political books."¹¹ These books often offer thinly sourced, tabloid-style writing on the lives of China's foremost political leaders. With the average Chinese citizen's increased mobility and freedom to travel independently, and with strict censorship in China—particularly of content on the Internet—there has been an expanding market for these books among mainlanders eager for any details about political intrigue and the private lives of Communist Party leaders.¹² The exiled poet Bei Ling, currently based in Taiwan, explained:

I think the basic reason is the absence of press freedom in China, let alone an environment where writers needn't fear to write such books. Consequently, these forbidden books attract a great deal of interest from millions of Chinese and have created a huge market. According to my estimates, about half of the books published in Hong Kong are on politics and cultural topics banned in China. These include books containing analyses of topics such as internal struggles within the party elite. There are also lurid accounts of the love affairs of senior party members and their mistresses' memoirs.¹³

Mighty Current Media, the publishing house with which all five disappeared booksellers were associated, was considered one of the top publishers in this niche,¹⁴ accounting for between one-third and 60 percent of the gossipy political titles on sale in bookstores and at news stalls.¹⁵ Mighty Current churned out books at a fast clip; Bei Ling estimates that it and its subsidiaries published about four or five books a month,¹⁶ including titles like *Secrets of Wives of Chinese Communist Party Officials*,¹⁷ *The General Secretary's Eight Love Stories*,¹⁸ and *Xi Jinping's Clan*.¹⁹ These books reportedly sold by the thousands at Mighty Current's bookstore, Causeway Bay Books, which is named after its Hong Kong neighborhood, a shopping district popular with mainland tourists. The Hong Kong International Airport is another important retail venue for politically sensitive titles.²⁰ The overwhelming majority of people who read these kinds of books—whether political gossip or serious and well sourced—are mainlanders.²¹

Nothing fueled the political gossip book industry in Hong Kong like the dramatic corruption scandal and downfall of former Chongqing Communist Party secretary Bo Xilai and his wife in early 2012.²² Bao Pu, founder and co-owner of New Century Press, a Hong Kong-based publishing company, estimates that within a year, approximately 150 books were published on the drama surrounding Bo Xilai and that Mighty Current was responsible for about half of those titles.²³

Several local sources informed PEN America that even before the Causeway Bay Books bookseller disappearances in late 2015, the niche industry of political gossip books had started to experience a downturn.²⁴ A variety of factors contributed to this market contraction: greater control by mainland Chinese publishers over the book market in Hong Kong, a shrinking retail market in Hong Kong generally, rising rents, the expansion of the Internet and e-books, tighter border controls, and increased intensity in book confiscations and fines for mainlanders attempting to bring banned books into China.²⁵ For example, a Chinese-owned publishing conglomerate, Sino United Publishing, controls more than 70 percent of the book publishing market in Hong Kong through its retail, distribution, and publishing operations.²⁶ The three large

chain bookstores in Hong Kong—Joint Publishing HK, Commercial Press, and Chung Hwa Book Co., which total 51 stores across the city—are subsidiaries of Sino United, whose ultimate owner is the Chinese Finance Ministry.²⁷

In 2015, in a further tightening of its control over the majority of Hong Kong’s publishing industry, the Liaison Office of the Central People’s Government (Liaison Office)—Beijing’s official presence in Hong Kong—reportedly took direct control of Sino United.²⁸ Thereafter, bookstores under the Sino United umbrella no longer stocked political books that were banned in China, although a few copies of such books might be found in the backs of stores or hidden behind a counter.²⁹

Several publishers and writers whom PEN America interviewed for this report noted that Hong Kong’s publishing business for political books had been getting harder over time and that the situation became even worse after Xi came to power.³⁰ Bao Pu, whose publishing house, the New Century Press, publishes serious political books about China (including, for example, former high-ranking politician Zhao Ziyang’s memoir, *Prisoner of the State*) told The New York Times that after Xi became president in 2012, New Century Press’s books sales to Sino United fell by 90 percent.³¹ Independent book publishers in Hong Kong have come to rely on independent “second floor” bookstores, with lower rents in out-of-the-way places, to sell their books.³² But these bookstores are hard to find and less well-known.³³ Causeway Bay Books was one such second-floor bookstore.

China’s Efforts to Stem the Tide of Illegal Books Entering From Hong Kong

The notion of “illegal” books in China is a concept rooted more in government practice than in publicly available law. While it is generally understood that such bans exist, there is no public list of banned books, let alone any accessible mechanism by which an author is notified about or can challenge such a ban.³⁴ The poet Meng Lang, who now lives in Taiwan, told PEN America that the concept of banned books in China generally includes political gossip books as well as books critical of the Chinese Communist Party and its leaders.³⁵ Ching Cheong, a senior journalist with the Straits Times, explained to PEN America that in China, books not given a formal book number—similar to an ISBN number—are considered illegal.³⁶ “In Hong Kong and elsewhere, it’s a straightforward matter to obtain a book number,” he said, “but in the mainland, because of its system of strict control and censorship, it is very difficult.”³⁷ Ching added that anti-Xi Jinping books sold in Hong Kong are certainly “banned” in China, although he noted that, “for Hong Kong residents, it’s difficult to comprehend which books are banned—where the line is drawn.”³⁸

Hong Kong legislator and Democratic Party member James To Kun-sun told PEN America that “there’s no list of what is a banned book and what isn’t,” so when crossing the border, “I really don’t know what will offend” China.³⁹ Albert Ho, a former Democratic Party legislator, echoed this view:

“You won’t know which books they will confiscate and which ones they won’t. it’s arbitrary.... The biggest problem is there is no definition, no law or administrative order, for what [constitutes] a banned book that is prohibited from being brought into China.”⁴⁰

Over the years the Communist Party has taken various measures to stem the tide of “illegal” books and magazines, including pornography, entering mainland China.⁴¹ In 2010, for example, the party launched the Southern Hill Project.⁴² Measures included enhanced border controls, more X-raying of luggage, and a mandate that tour guides warn mainlanders visiting Hong Kong not to purchase illegal magazines and books, and if they did, that they would bear the consequences of whatever might happen at the border on their return.⁴³ The Southern Hill Project appears to be an ongoing part of China’s campaign to attack and “wipe out at the source” pornography and illegal publications.⁴⁴

In the run-up to the 18th Party Congress in November 2012, when Xi Jinping was elected to the post of general secretary of the Chinese Communist Party, measures to halt the flow of “politically harmful” books from Hong Kong into China intensified.⁴⁵ Bao Pu described the 18th Party Congress as a “milestone” in the party’s battle against the Hong Kong publishing industry.⁴⁶ Other publishers and authors whom PEN America spoke with concurred.⁴⁷

The pre-18th Party Congress campaign in early 2012 included threatening travel agents with fines if their clients returned to the mainland with banned books⁴⁸ and submitting all travelers from Hong Kong to stricter luggage control.⁴⁹ In 2013, the Chinese government launched a renewed effort to “wipe out at the source” harmful and pornographic publications.⁵⁰ This campaign was intensified in 2014 with the Internet serving as “the primary battlefield”⁵¹ of a larger war to prevent banned materials from entering the mainland by securing the borders, especially Guangdong’s border with Hong Kong.⁵²

Previous Detentions of Hong Kong Publishers: The Cases of Yiu Mantin (Yao Wentian), and Wang Jianmin and Guo Zhongxiao

The Chinese government's detention of Hong Kong publisher Yiu Mantin (Yao Wentian) in October 2013 was another turning point for Hong Kong's publishing industry. The incident caused alarm among independent booksellers and can be seen now as a precursor to the fear induced by the Causeway Bay booksellers case.⁵³

Yiu was the founder and owner of Morning Bell Press (Chenzhong), a small company that published many books by dissident writers—including members of the Independent Chinese PEN Center⁵⁴—who were banned in China.⁵⁵ In May 2014, Yiu, then 73, was convicted by a court in Shenzhen on smuggling charges and sentenced to 10 years in prison.⁵⁶ Many observers, including the U.S.-based exiled writer Yu Jie, believe that the real reason behind his 10-year sentence was the imminent publication of an exposé by Yu, *Godfather of China: Xi Jinping*.⁵⁷ Subsequently, another Hong Kong publisher, Wu Yisan—who had planned to publish the book after Yiu's detention—declined to do so after receiving a threatening phone call.⁵⁸ According to Yu Jie, the caller made it clear to Wu Yisan that Beijing considered the contents of the book to be highly sensitive and that it must not be published.⁵⁹ It was eventually published by Jin Zhong, the publisher of Open Books, who moved to the United States in February 2016.⁶⁰

In an op-ed for Hong Kong's South China Morning Post, publisher Bao Pu Yiu wrote that Mantin's arrest was

apparently to stop [Yiu] from publishing the book, *Chinese Godfather: Xi Jinping*. All journalists, editors and publishers in Hong Kong have got the message: there are certain words that the mainland authorities dislike, and if you use them, you too may suffer the consequences.⁶¹

At the end of May 2014, two Hong Kong permanent residents involved with political tabloid magazines in the city were detained in China and later tried on charges of illegal business operations, bribery, and bid rigging.⁶² Wang Jianmin (also known as James Wang), who is also a U.S. citizen, and his colleague Guo Zhongxiao, a Hong Kong permanent resident, held senior positions with the political gossip magazines *New-Way Monthly* and *Multiple Face*.⁶³ In charging the two, the Chinese authorities focused on alleged sales of the magazines on the mainland.⁶⁴ In late July 2016, they were tried and convicted by a Shenzhen court.⁶⁵ Wang was sentenced to five years and three months in prison and Guo to two years and three months.⁶⁶ *Apple Daily*, a Hong Kong-based paper, reported that Guo was released on August 28, 2016, but that he had no immediate plans to return to Hong Kong.⁶⁷

Independent publishers and others involved with the production and distribution of sensitive books were unnerved by these cases. But those who spoke with PEN America stressed that the prevailing understanding was that as long as they stayed in Hong Kong and did not cross the border into the mainland, they would be safe.⁶⁸

TIMELINE OF THE DISAPPEARANCES

What is Known About the Causeway Bay Booksellers Case

The Causeway Bay Books case began in October 2015 with the disappearance of four men affiliated with Causeway Bay Books and its owner, the Mighty Current publishing house. Three disappeared while they were in mainland China: Cheung Chi-ping, the business manager of Mighty Current; Lui Por,⁶⁹ the general manager and one of three co-owners of Mighty Current; and Lam Wing-kee,⁷⁰ the manager of Causeway Bay Books (and founder and owner of the bookstore prior to its acquisition by Mighty Current in 2014).⁷¹ Gui Minhai, a co-owner and publisher of Mighty Current, disappeared from his vacation home in Pattaya, Thailand.⁷² Two months later, in late December 2015, a fifth man, Lee Bo—an editor at Mighty Current—disappeared from Hong Kong.⁷³

In the period that followed, the booksellers' families and the Hong Kong public were offered little information. Chinese authorities took weeks to confirm that Lee Bo was detained in mainland China and months to confirm that Lui Por, Cheung Chi-ping, and Lam Wing-kee were also in Chinese custody. Four of the booksellers surfaced on Chinese television in January and February 2016, making what appeared to be scripted confessions. A more complete account was not made available until June 16, 2016, when bookseller Lam Wing-kee went public, describing his own abduction and months of captivity at the hands of agents of the Chinese government to Jerome Cohen, a professor at the NYU School of Law and director of its U.S.-Asia Law Institute, who posted it on his blog.⁷⁴

Today Lam Wing-kee remains in Hong Kong. Although Lee Bo, Cheung Chi-ping, and Lui Por appear to be out of Chinese custody, there is little public information about their current situation, and they have remained tight-lipped about their ordeals—likely because all of them have relatives in mainland China.⁷⁵ More than a year after his disappearance, Gui Minhai remains in incommunicado detention.⁷⁶

Information about the circumstances of the booksellers' disappearances, their treatment while in detention, and their subsequent reappearances in Hong Kong is still incomplete, and will be until the Chinese government provides a full explanation of the circumstances in which the booksellers found themselves in custody. Here are the facts as they are publicly known.

Name	Role in Causeway Bay Bookstore & Mighty Current	Date of disappearance	Place of disappearance	Date of return to HK	Citizenship
Lui Por	General manager of Causeway Bay, co-owner of Mighty Current	October 14 (though Lui himself says October 17)	Shenzhen, Guangdong	March 4	Hong Kong resident, Chinese citizen
Gui Minhai	Co-owner of Mighty Current	October 17	Pattaya, Thailand	Still in Chinese detention	Swedish citizen
Cheung Chi-ping	Business manager of Mighty Current	October 24	Dongguan, Guangdong	March 6	Hong Kong resident, Chinese citizen
Lam Wing-kee	Manager and former owner of Causeway Bay	October 24	Shenzhen, Guangdong	June 14	Hong Kong resident, Chinese citizen
Lee Bo	Manager of Causeway Bay; wife Sophie Choi Ka-ping is co-owner of Mighty Current	December 30	Chai Wan, Hong Kong	March 24	Hong Kong resident, Chinese citizen, British citizen

October 2015: Four Booksellers Vanish

October 14

Last date that Lui Por, a Chinese citizen and Hong Kong resident who is the general manager and one of the three co-owners of Mighty Current, is seen at Causeway Bay Books.⁷⁷ Shortly after, it is believed that Lui is detained while traveling to mainland China to visit his wife.⁷⁸ Lui himself would later state that he was detained on October 17.⁷⁹

October 15

Gui Minhui, another co-owner of Mighty Current and a Swedish citizen, is last heard from when he sends an email to his business partner Lee Bo to say he has arrived in Thailand and to invite Lee to stay with him at his vacation condominium in Pattaya.⁸⁰ Gui also sends an email to his printers asking them to get ready for a new book.⁸¹

October 17

Gui disappears from his condominium. Surveillance footage from his building shows an unidentified man lingering outside the building until Gui arrives.⁸² A few hours later, the man gets into Gui's car and the two drive off.⁸³ Gui then calls the management company of his building and tells the attendant to put his fruit in the refrigerator and lock his apartment.⁸⁴

Lui Por is detained in mainland China.⁸⁵

October 24

Chinese citizen and Hong Kong resident Cheung Chi-ping, Mighty Current's business manager, is last seen at his wife's home in Dongguan, in the mainland.⁸⁶ Cheung is reportedly taken away by more than a dozen armed men in plainclothes.⁸⁷

Causeway Books store manager Lam Wing-kee, who is also a Chinese citizen and Hong Kong resident, is detained by security officers while crossing the border from Hong Kong into the mainland at Shenzhen to visit his girlfriend, who lives in Dongguan.⁸⁸ Lam is apprehended by at least 10 officers, blindfolded and handcuffed, and taken to a Shenzhen police station.⁸⁹

October 25

Lam is transported by train to Ningbo, Zhejiang province, about 14 hours away.⁹⁰ His captors refuse to answer any of his questions about what he has done wrong.⁹¹

October 26

After arriving in Ningbo, Lam is questioned by Chinese authorities at a detention center about Causeway Bay Books' operations and clients. From October 27, 2015, to March 2016, Lam is kept in an undisclosed location in Ningbo under continuous surveillance and interrogated repeatedly about the bookstore.⁹²

November 2015: Suspicions of Foul Play

Early November

Gui contacts his daughter Angela after failing to respond to her messages for two weeks after his disappearance. Via Skype message, he says, "I have put [HK\$30,000] in your account in Hong Kong, and hope you will be fine with everything."⁹³

Bei, the former president of the Independent Chinese PEN Center and longtime friend of Gui, travels to Pattaya, Thailand, to investigate the circumstances of Gui's disappearance.⁹⁴ During Bei's investigation, he obtains video surveillance from Gui's apartment from October 17 and learns from authorities that there is no written record of Gui leaving Thailand.⁹⁵

November 3

After Gui reportedly phones the management company for his Thai condo to say that a friend would come by to pick up his computer, surveillance footage for the condo shows four casually dressed men, one wearing a hat and sunglasses, arriving at the building.⁹⁶ The men spend 26 minutes in Gui's apartment but leave without his computer.⁹⁷

November 5

Lam's estranged wife files a missing person report with the Hong Kong police.⁹⁸ Missing person reports are also filed the same day with the Hong Kong police for Lui and Cheung.⁹⁹

November 6

Boxun, a U.S.-based Chinese news website, is the first to publicly report the disappearances of the four booksellers.¹⁰⁰ Shortly thereafter, Lam phones his wife and tells her that he is safe, not to worry, and that he will be back in a while.¹⁰¹ Around the same time, Gui calls his Germany-based wife and makes similar statements.¹⁰²

November 9

Lee Bo, a Hong Kong resident and British citizen and a major stockholder in Causeway Bay Books, emails Angela Gui to say that her father "has been missing for over twenty days" and that he fears he was taken by Chinese agents "for political reasons relating to his publishing business and bookstore."¹⁰³ Angela Gui, acting on this information, begins to talk to the media about her father's disappearance and also reports it to the Swedish government and police.¹⁰⁴

November 13

Lee signs an agreement with Chan Hin-shing, the owner of a massage parlor who has no previous publishing experience,¹⁰⁵ to let Chan run Causeway Bay Books for six months, until May 13, 2016.¹⁰⁶ Chan agrees to cover operation costs as well as pay the monthly rent.¹⁰⁷

December 2015: A Fifth Disappearance

December 7

The Guardian runs an article about Gui Minhai's disappearance.¹⁰⁸ In it, Angela Gui explains that her father has made regular calls to his wife, "telling her he is fine but not answering any questions regarding his whereabouts."¹⁰⁹ Lee tells The Guardian, "We don't know what happened and we don't know who has taken him, whether they were Chinese or Thai. Nothing is clear."¹¹⁰

December 30

Lee disappears. He is last seen at Mighty Current's warehouse in Hong Kong. Twice that night, Lee calls his wife, Sophie Choi Ka-ping. He tells her that he is on the mainland assisting in an investigation and that he will not be coming home "anytime soon."¹¹¹ In the second call he asks her to stay quiet about the incident.¹¹² Choi says that during the call, she heard another voice on the phone reminding Lee that he would receive leniency if he cooperates.¹¹³ Choi also notes that Lee uncharacteristically spoke to her in Mandarin, rather than his native Cantonese.¹¹⁴

January 2016: Reacting to the Disappearances

January 1

Hong Kong's *Apple Daily* reports Lee's disappearance.¹¹⁵ Sophie Choi files a missing person's report with the Hong Kong police.¹¹⁶ A police source tells Choi that there is no record of Lee leaving Hong Kong.¹¹⁷ Lee's home return permit—a document required to cross the border into mainland China—is later found at his home in Hong Kong.¹¹⁸

January 4

Hong Kong chief executive C.Y. Leung makes his first statement on Lee's disappearance in a press conference, saying that it is "unacceptable if mainland legal agencies enforced law in HK as it is against the Basic Law," but also claiming there is "no indication" that mainland authorities were involved in the disappearance.¹¹⁹

Taiwan's Central News Agency publishes a letter allegedly handwritten by Lee. In the letter, addressed to the new owner of Causeway Bay Books and received via fax, Lee claims he returned voluntarily to the mainland using his "own means" to take care of an urgent matter.¹²⁰ The letter also says, "My current situation is good, everything is normal."¹²¹ After seeing the letter, Lee's wife attempts to withdraw her missing person report, but Hong Kong police state that a report may only be cancelled by the missing person himself.¹²²

January 5

Hong Kong Legislative Council member Ng Leung-sing suggests that the five booksellers took a boat to the mainland to hire prostitutes there.¹²³ Lee's wife describes the comments—made under Legislative Council privilege—as “shameful and irresponsible.”¹²⁴ A day later, Ng apologizes to Lee and Choi for his allegation.¹²⁵

The British government confirms that Lee is a British citizen.¹²⁶ In a joint press conference with Chinese foreign minister Wang Yi, British foreign secretary Philip Hammond says the government has “urgently enquired” about Lee's whereabouts to both Hong Kong and Beijing.¹²⁷

January 6

Joshua Wong and other members of the student activist group Scholarism lead a small protest at the Liaison Office, Beijing's official representative within Hong Kong.¹²⁸ Members of the group also release a video and submit petitions to the British and U.S. consulates calling for the safeguarding of Hong Kong's Basic Law.¹²⁹

January 7

The European Commission, the European Union's executive body, releases a statement calling the disappearances of the booksellers “extremely worrying” and warning that the operation of mainland Chinese police in Hong Kong would be a violation of the Basic Law.¹³⁰

January 8

U.S. State Department spokesperson John Kirby says that the U.S. government is “disturbed” by the disappearances.¹³¹

January 9

Headline Daily, owned by the pro-Beijing Sing Tao Newspaper Group, publishes a second letter from Lee, accompanied by a video recording.¹³² In it, Lee asks Hong Kongers not to organize a planned protest for the following day, saying, “I do not know why some people have made a big fuss out of this matter.”¹³³ His letter also claims that his return to the mainland is not related to the other missing booksellers.¹³⁴

January 10

Thousands of Hong Kongers defy Lee's plea and march to the Liaison Office to protest the booksellers' disappearances.¹³⁵

January 12

Lee Bo has now been missing for 14 days. Under the “reciprocal notification” mechanism governing how mainland and Hong Kong authorities notify each other when they have detained a resident from the other's territory, mainland law enforcement officials generally notify Hong Kong police within 14 days of the detention of any Hong Kong resident as an “unwritten rule.”¹³⁶ Although Chief Executive Leung states that he has “relayed the Hong Kong people's concern” about Lee's disappearance to “the relevant mainland authorities,” he suggests that he does not consider the 14-day period to be a definite deadline.¹³⁷ Leung notes that the case was only reported to Hong Kong police on January 1 and argues that “it has taken time for these authorities to respond to similar cases in the past.”¹³⁸

January 13

Jasper Tsang Yok-sing, president of Hong Kong's Legislative Council, urges the central government to send a clear message to reassure citizens that they did not violate the “one country, two systems” principle concerning Lee's disappearance.¹³⁹

Several legislators stage a protest in the Legislative Council while Leung is giving his annual policy address, expressing their objection to the chief executive's lack of action on the disappearances.¹⁴⁰

January 17

CCTV, Chinese state television, airs a videotaped statement by Gui in which he claims he went to the mainland voluntarily. Gui says that he had previously fled the mainland after receiving a two-year suspended sentence for his involvement in a fatal drunk driving accident in 2003. He claims that he returned to the mainland to turn himself in.¹⁴¹ The video immediately raises suspicions that Gui's confession was forced.¹⁴²

On the same day, news reports emerge of a new letter purportedly written by Lee to his wife, in which he criticizes Gui as a “complex character” with “no virtue.” Lee's letter also says that he went to the mainland of his own accord to assist with the investigation of Gui.¹⁴³

January 18

Twenty days after his disappearance, Chinese authorities confirm that Lee Bo has been detained in mainland China.¹⁴⁴

Speaking to the South China Morning Post, Swedish deputy minister for finance Per Bolund urges Chinese authorities to show openness and allow Swedish authorities to contact Gui.¹⁴⁵

January 19

Leung tells the press that the Hong Kong government has sent a request to the Guangdong police requesting to meet Lee. Leung also claims that it is not unusual that it took Guangdong officials 20 days to notify Hong Kong of Lee's detention, despite established practice under the reciprocal notification arrangement that notification will be made within 14 days.¹⁴⁶

January 22

The Swedish embassy in Beijing notes the "repeated denial of consular access to Mr. Gui Minhai."¹⁴⁷ On the same day, the U.K.'s then-Minister of State for Foreign and Commonwealth Affairs Hugo Swire raises the case with the Chinese Ambassador to the United Kingdom, emphasizing "the need for the Chinese authorities to return Mr. Lee to Hong Kong immediately."¹⁴⁸

January 23

Sophie Choi meets her husband, Lee Bo, at an undisclosed location in mainland China. Lee gives her a letter to pass on to the Hong Kong police asking that they "not continue to waste police resources" on his case and repeating that he had gone to the mainland on his own accord.¹⁴⁹ Mainland officials reportedly fail to inform Hong Kong authorities of the meeting, and they learn of it only when Sophie Choi informs them about it afterward.¹⁵⁰

January 26

Margot Wallstrom, Sweden's minister for foreign affairs, echoes the message of the Swedish embassy in Beijing, stating she is "very concerned" about Gui and that Swedish "efforts to bring clarity to his situation and be granted the opportunity to visit him continue with unabated intensity."¹⁵¹

February: Confirmed Detentions and Scripted Confessions

Early February

The British government states that it is still awaiting a response to its diplomatic requests for information on and access to Lee.¹⁵²

February 4

Guangdong police confirm that Lui, Cheung, and Lam are in custody and under investigation in mainland China.¹⁵³ This confirmation comes over three months after the three men were detained, far exceeding the expected 14-day notice period.¹⁵⁴ Hong Kong authorities are also informed that Lee has rejected their request to meet with him.¹⁵⁵

The European Parliament issues a resolution expressing concern over the disappearance of the booksellers and calling for their release.¹⁵⁶

February 11

In its biannual report on developments in Hong Kong, the British government makes its strongest public statement to date on the abductions, calling them "a serious breach of the Sino-British Joint Declaration."¹⁵⁷

February 24

After repeated requests for consular access to Gui, Swedish diplomats are allowed a brief meeting with him for the first time.¹⁵⁸ At the meeting, Gui tells Swedish diplomats that he does not want their assistance.¹⁵⁹

February 28

Lui Por, Cheung Chi-ping, Lam Wing-kee and Gui Minhai all appear on Phoenix TV, a privately-owned Hong Kong-based news outlet that enjoys close ties to the Chinese government.¹⁶⁰ In their interviews, Lui, Cheung, and Lam purportedly confess to distributing unlicensed books on the mainland, selling unauthorized books in China via an online platform, and evading customs inspections to deliver about 4,000 books to 380 customers since October 2014.¹⁶¹ Lui, Cheung, and Lam

all name Gui as the lead figure in this unauthorized distribution.¹⁶² Gui, in his interview, confesses that he has “explored ways to circumvent official inspections in China.”¹⁶³

Chinese media reports claim that police say Lui, Cheung, and Lam will soon be released due to their “relatively good attitude in admitting their crimes.”¹⁶⁴

February 29

Hong Kong police and immigration officials meet with Lee in a Chinese guesthouse at an undisclosed location.¹⁶⁵ The Hong Kong police state that Lee informed them that he had voluntarily gone to China and was not abducted but refused to give further details.¹⁶⁶

Hours later, Phoenix TV airs an interview with Lee in which he claims that he went to mainland China of his own accord to assist police in an investigation and that the secrecy of his travels was intended to protect him and his family from harm.¹⁶⁷ In this interview, Lee also renounces his British citizenship, referring to it as his British “residency rights.”¹⁶⁸

March 2016: Release (and Return)

March 1

Leung and Secretary for Security T.K. Lai announce that the Hong Kong government will investigate how Lee left Hong Kong without undergoing normal immigration procedures.¹⁶⁹

Around this time, Hong Kong police announce that three of the five booksellers, Lui, Cheung, and Lam, will soon be “released on guarantee pending investigation” (often described in English-language reporting as “released on bail”).¹⁷⁰

March 4

Lui travels to Hong Kong and meets with Hong Kong police, requesting that they terminate their investigation into his disappearance.¹⁷¹ He reportedly returns to the mainland that same day.¹⁷²

March 6

Cheung travels to Hong Kong and requests that the Hong Kong police terminate their investigation into his disappearance.¹⁷³ He reportedly returns to the mainland that same day.¹⁷⁴

March 10

U.S. ambassador Keith Harper delivers a joint statement to the United Nations Human Rights Council in Geneva on behalf of the U.S., Australia, Denmark, Finland, Germany, Iceland, Ireland, Japan, the Netherlands, Norway, Sweden, and the United Kingdom.¹⁷⁵ The joint statement says that the “extraterritorial actions” of China are “unacceptable, out of step with the expectations of the international community, and a challenge to the rules-based international order.”¹⁷⁶

In response, the Chinese government accuses the U.S. and Japanese governments of hypocrisy, claiming that they are themselves guilty of numerous human rights violations.¹⁷⁷

March 19

Lui makes another brief trip to Hong Kong. When questioned by Hong Kong media outlets, he says that he was first detained on October 17. He says that he may hire a lawyer, and that he can travel freely between Hong Kong and mainland China, but does not explain the conditions of his release in further detail.¹⁷⁸

March 24

Lee travels to Hong Kong and asks authorities to drop the investigation into his disappearance, in similar fashion to his three colleagues before him. Lee repeats to police that he went to the mainland to assist in a court case and that he was “safe and free” during his time there. He promptly returns to the mainland.¹⁷⁹

March 28-30

Lee briefly returns to Hong Kong on March 28.¹⁸⁰ The next day, in an interview with U.S.-based news website Mingjing, he claims that Lam has also been conditionally released on guarantee pending investigation.¹⁸¹ On March 30, Lee and his wife, Sophie Choi, appear in Xiamen, Fujian Province, on the mainland.¹⁸²

April 2016: “A Very Unfortunate Incident”

April

At some point in April, Lam is relocated by Chinese authorities to a rented room in Shaoguan, in northern Guangdong.¹⁸³ He remains there, in incommunicado detention, until his return to Hong Kong in June.¹⁸⁴

April 12

Wang Zhenmin, head of the legal department of Beijing’s Liaison Office in Hong Kong, tells the Hong Kong Foreign Correspondents’ Club that the disappearance of the Hong Kong booksellers was a “very unfortunate incident” and that “no one wants to see this kind of case happen in Hong Kong. No one wants to see it happen again in future.” He says he is happy that Lee has returned to Hong Kong and is living a “normal life.”¹⁸⁵

April 25

The European Union’s 2015 annual report on Hong Kong raises the case of the booksellers’ detentions, calling them “the most serious challenge to Hong Kong’s Basic Law and the ‘one country, two systems’ principle since Hong Kong’s handover to the PRC in 1997.”¹⁸⁶

April 26

China Foreign Ministry spokesperson Hua Chunying responds to the European Union’s report, criticizing the EU for making “groundless accusations” and saying, “We require the European side to mind its words and deeds and stop intervening in Hong Kong affairs.”¹⁸⁷

May 2016: International Pressure Continues

May 12

In a report to Congress, the U.S. State Department says that the booksellers’ disappearances and detentions appear to be “the most significant breach of the ‘one country, two systems’ policy since 1997.”¹⁸⁸

May 24

The U.S. Congressional-Executive Commission on China, an independent government agency that monitors human rights in China, holds a hearing on the disappearances. Gui’s daughter Angela testifies, calling for international attention and help for her father’s case.¹⁸⁹ She confirms that Chinese authorities have told the Swedish government that Gui wishes to give up his Swedish citizenship. A Swedish government spokesperson responds, saying, “According to our information, Mr. Gui is a Swedish citizen.”¹⁹⁰

June 2016: The Story Emerges

June 6

Sweden’s Consul-General to Hong Kong, Helena Storm, gives an interview to the South China Morning Post in which she confirms that China has denied Sweden consular access to Gui since the brief February visit.¹⁹¹ Consul-General Storm says that Sweden continues to “request answers on the legal process and any charges against him” and that it expects these accusations “to be dealt with within the framework of the rule of law.”¹⁹²

June 14

Bookseller Lam Wing-kee returns to Hong Kong. As Lam later explains, Chinese officials instructed him to return to Hong Kong to retrieve his computer from Causeway Bay Books containing identifying information of their customers in mainland China, return to the mainland, and hand the computer over to officials. Instead, Lam decides to defy the officials and stay in Hong Kong.¹⁹³

June 16

Lam holds a press conference, informing the public of his abduction by Chinese security agents.¹⁹⁴ This press conference marks the first time Hong Kong’s public, the Hong Kong government, and the international community hear uncoerced testimony from one of the abducted booksellers. In this and subsequent accounts of his ordeal, Lam states that he and his colleagues were taken by force.¹⁹⁵ He also describes the circumstances of his eight-month detention, including the questioning he endured from agents of an elite Central Special Investigative Unit about Mighty Current’s distribution

operations in China and the sources for its books.¹⁹⁶ Lam says that in detention, police accused him of conducting “illegal business operations” by mailing books to the mainland.¹⁹⁷

Lam further states that in his videotaped confession, he was reading word for word from a script given to him by Chinese officials.¹⁹⁸ He also claims that before his interrogation, he was compelled to sign a document stating that he would not contact an attorney or his family.¹⁹⁹

June 17

On his Facebook page, Lee denies Lam’s claims.²⁰⁰ But Woo Chih-wai, a former employee at Causeway Bay Books, says during a radio interview that Lee told him privately that he is afraid to tell the truth publicly, allegedly saying that he fears for his family’s safety and that he was told that “if he revolts, he will be living in terror for his whole life.”²⁰¹

Lam heads a group of several thousand people protesting the abductions.²⁰²

June 18

Lui and Cheung are quoted in an exclusive interview with Sing Tao Daily News, a Hong Kong-based outlet generally seen as pro-Beijing.²⁰³ In this interview, both booksellers deny Lam’s allegations that they were abducted and that their confessions were involuntary, accusing Lam of lying.²⁰⁴

June 19

A woman claiming to be Lam’s girlfriend gives a similar interview to Sing Tao in which she also says that Lam is lying.²⁰⁵ The purported girlfriend, identified only as “Ms. Hu,” claims that when she and Lam were detained, they chose not to contact his relatives or a lawyer out of consideration for his aging parents and other family members.²⁰⁶ Hu accuses Lam of having tricked her into engaging in illegal activities, namely, mailing books to mainland China. Hu also says that Lam is “not like a man” and has “no creditability and principle.” Hu was conditionally released on guarantee in March.²⁰⁷

June 20

Leung holds a press conference and makes his first public remarks about Lam’s allegations.²⁰⁸ At this conference, Leung tells the press that he “attaches great importance” to Lam’s case and that officials will review the reciprocal notification system.²⁰⁹ Leung also tells the press that he will write a letter to Beijing expressing the Hong Kong people’s “concern and misgivings” over Lam’s case.²¹⁰

July 2016: Fear and Fallout

July 1

Hong Kong’s annual march marking the handover to China draws tens of thousands of participants. Organizers invite Lam to lead the march, but he backs out, fearing for his safety.²¹¹

July 5

Beijing and Hong Kong officials reach an agreement to formalize the practice of notifying each other of the detention of an individual from the other side in writing within 14 days, and with a summary of the allegations against the individual.²¹²

The Ningbo Public Security Bureau issues a statement saying that Lam has broken the terms of his release by failing to return to the mainland for further investigation and that this failure would lead to criminal enforcement measures against him.²¹³

July 6

Hong Kong secretary for security Lai Tung-kuok states that Hong Kong will not send Lam back to the mainland, citing the lack of any legal arrangement for the transfer of a Hong Kong resident to mainland authorities.²¹⁴

July 8

As fears for his safety persist, Lam accepts an offer of police protection.²¹⁵

July 12

Lam gives an interview to Hong Kong’s Now TV in which he claims that Gui is due to be sentenced by the end of the year.²¹⁶

September-October 2016: Gui's Plight Continues

September 28

After repeated requests for consular access to Gui, Swedish diplomats are granted a brief meeting with him. This meeting marks only the second time in almost a year that Swedish officials have had access to Gui, a Swedish citizen.²¹⁷

October 2

Lam tells Apple Daily that his police protection has been removed at his request and that he has been on high alert when he leaves his home. Lam says that he has not contacted other Causeway Bay Books employees and has not gone back to the bookstore.²¹⁸

October 6

The U.S. Congressional-Executive Committee on China's 2016 annual report states that the booksellers' disappearances "compromised the 'one country, two systems' policy."²¹⁹

October 12

The British government's biannual report on developments in Hong Kong between January and June 2016 once again states that the abduction of Lee constitutes "a serious breach of the Sino-British Joint declaration" and that "although Lee Bo has now returned to Hong Kong, the issues raised by the case remain of concern."²²⁰

October 17

On the one-year anniversary of Gui's abduction, his daughter Angela publishes an article in The Washington Post appealing to the public not to forget her father's case and calling for democratic countries to step up their pressure on the Chinese government.²²¹

A Final Note: On Qubao Houshen and Bail

Today, four of the five booksellers have been released on "guarantee pending further investigation" (*qubao houshen*), a provision under China's Criminal Procedure Law that often is translated as "bail" for English-speaking audiences. But as NYU law professor Jerome Cohen notes on his blog, this concept is different in practice: Those released under *qubao houshen* "cannot leave their city without police approval, they have to report regularly on their activities, they are often shadowed and can be taken back into custody and prosecuted at any moment. The police often silently drop the case at the end of the year unless they come up with evidence, but unauthorized surveillance often continues. Plainly, this is very different from a true release and termination of police interference with one's life."²²² Under the law, *qubao houshen* lasts for up to one year. As four of the booksellers were apparently released only in March, they remain under a legal cloud, in which the police could simply re-arrest them at any moment. China's willingness to do so seems evident from the fact that they attempted to enforce these measures on Lam in June, warning him to return to mainland China or they would apply legal measures.²²³ As a result, the four "released" booksellers are not free from legal restrictions.

CONFRONTING THE THREAT TO HONG KONG'S AUTONOMY

Local and International Reaction to the Booksellers' Disappearances

Public Outcry in Hong Kong

The disappearances of the booksellers—particularly of Lee, who was apparently abducted from within Hong Kong—were met with widespread shock and dismay by the Hong Kong public, and galvanized a series of protests against the apparent forced abductions and in support of Hong Kong's press and publication freedoms.

The first protests against Lee's disappearance, including a demonstration outside the Liaison Office led by Joshua Wong and other members of the student activist group Scholarism, occurred within days.²²⁴ Scholarism members also submitted petitions for help to the British and U.S. consulates and released a video on Lam's abduction, "An Urgent Cry From Hong Kong."²²⁵ The video ends with the call, "Let us stand up to show our discontent on this abduction and stop the further suppression to [sic] political dissent in Hong Kong."²²⁶ As of the time this report was released, the video had been viewed more than 50,000 times.²²⁷

Other civic groups and Hong Kong's pro-democracy legislators began to speak in alarm.²²⁸ Protests ramped up with a January 10 march on the Liaison Office, organized by the Hong Kong Alliance in Support of Patriotic Democratic Movements of China.²²⁹ Police estimates placed the number of marchers at 3,500, while event organizers said 6,000.²³⁰ CNN described the march as having "echoes of 2014's 'Occupy' protests," the months-long democracy demonstrations that brought large parts of Hong Kong to a standstill.²³¹ Daisy Chan Sin-Ying, a former leader of the Civil Human Rights Front (CHRF), compared the protest to the annual July 1 pro-democracy marches organized by the CHRF that attract thousands each year.²³²

On January 13, multiple legislators staged a protest within the Legislative Council chambers during Leung's policy address, a highly public act of criticism of the chief executive for his perceived lack of action on the disappearances. The lawmakers were removed by security as they shouted "Where is Lee Bo?" and held up signs protesting the disappearances.²³³ Outside, dozens of demonstrators gathered.²³⁴

While opposition legislators and other groups continued to loudly call for answers during the spring of 2016,²³⁵ Lam's emergence in June to describe his treatment publicly sparked another wave of protest. On June 18, led by Lam himself, thousands marched in protest and solidarity. As with the January demonstration, police estimated the marchers conservatively at 1,800, while others placed the number significantly higher.²³⁶

On July 1—the anniversary of Hong Kong's handover to China from the United Kingdom and the date of Hong Kong's annual pro-democracy march—organizers of the annual march explicitly linked the Causeway Bay Books incident with broader pro-democracy sentiment by inviting Lam Wing-kee to lead the march. Lam backed out at the last minute, believing that his safety could not be guaranteed, but marchers carried his photo down Hong Kong's streets and many described the disappearances as a reason for their participation.²³⁷ CNN reporter Rishi Iyengar tweeted: "Crowd steadily growing, bookseller Lam Wing-kee top of many people's minds."²³⁸

Given their annual occurrence, the July 1 protests have been described as "a barometer of public sentiment toward Beijing."²³⁹ The 2016 turnout was estimated by organizers to be over 100,000 (though police put the number at around 20,000).²⁴⁰ Many variables may have played a role, but it is notable that it was more than twice as large as the 2015 march, according to organizer estimates.²⁴¹

The timing of the January and June protests aligns with apparently scripted statements by the booksellers still on the mainland that attempt to explain away their disappearances. Lee's January 9 statement explicitly requested that Hong Kong residents not participate in the January 10 protest.²⁴² Likewise, June 18, the day that Lam led a Hong Kong protest, was the day that three of his Causeway Bay colleagues gave interviews calling him a liar, although the timing of those interviews may have had more to do with Lam's recent press conference than the resulting protest.²⁴³

The public outcry appeared to have one significant result: Lam has explained that it was watching the footage of previous protests upon his return to Hong Kong that he began to seriously consider going public with the story of his abduction.²⁴⁴ At his press conference in June, Lam stated that he was “touched” by these acts of solidarity, “especially by the 6,000 people who took to the streets.”²⁴⁵ Speaking to PEN America in August, Lam recounted this feeling of gratitude for the protestors’ act of solidarity and his own feeling of obligation to speak out, to protect not only his rights but the rights of all Hong Kong residents.²⁴⁶

The Reaction of Hong Kong Authorities

The actions of Hong Kong’s authorities contrast with the actions of the public. To the extent that Hong Kong officials have issued statements about the abductions and subsequent developments, they have done so only after sustained expressions of concern by the Hong Kong public and the international community.²⁴⁷ A review of statements by Hong Kong government officials reveals a preoccupation with emphasizing the integrity of Hong Kong’s legal structure and the “One Country, Two Systems” framework in the face of increasingly clear evidence that both were violated by mainland authorities, and a unwillingness to publicly consider allegations of mainland involvement in the abductions even as it became increasingly clear that such involvement had taken place.

Chief Executive Leung’s first statement addressing Lee’s disappearance, given on January 4, three days after Lee’s wife reported his disappearance to the Hong Kong police, is instructive. In his remarks, Leung stated:

The freedom of the press and freedom of publication and freedom of expression are protected by laws in Hong Kong. The reason why I want to invite friends in the media to come to our office is to state solemnly the provision under the Basic Law, namely only legal enforcement agencies in Hong Kong have the legal authority to enforce laws in Hong Kong. No other law enforcement agencies—outside of Hong Kong, that is—have such authority.²⁴⁸

Asked whether there was evidence to suggest that Mainland authorities had been behind the kidnappings, Leung answered:

There is no indication, and that’s why I was appealing for more information. Anyone who think they may have information that may lead to a better understanding of their whereabouts and the reasons why they seem to be missing in Hong Kong or from Hong Kong would be welcome to provide such information to the Hong Kong government authorities.²⁴⁹

The next day, Leung urged Lee Bo, recently abducted from Hong Kong and still missing, to come forward to explain the circumstances behind his disappearance.²⁵⁰ The chief executive issued his request just after the purported letter from Lee emerged saying he had gone to the mainland of his own accord to assist in the investigation. There was no public indication that Leung had issued a similar request to the Chinese government in Beijing to explain the disappearances of the booksellers or its role in them.

Hong Kong’s executive authorities, while expressing their concern, took pains to emphasize that nothing was amiss regarding Hong Kong’s status.²⁵¹ For example, in late January, when asked by a legislator what actions the Hong Kong government had taken to investigate the disappearances, Secretary for Security Lai Tung-kuok’s official response focused more on a reiteration of Hong Kong’s constitutional structure than on the alleged violations of it. He said:

Since Hong Kong’s return to China, the HKSAR Government has all along been dealing with matters relating to the HKSAR strictly in accordance with the principle of “one country, two systems” and the Basic Law. The Basic Law only authorises law enforcement agencies of Hong Kong to enforce laws in Hong Kong. Law enforcement agencies outside of Hong Kong, including law enforcement agencies of the Mainland and overseas, do not have the authority to enforce laws in Hong Kong.... In addition, Article 28 of the Basic Law states that the freedom of the person of Hong Kong residents shall be inviolable.... The HKSAR Government will, as always, continue to resolutely safeguard the rights and freedoms of Hong Kong residents in accordance with law. Hong Kong residents enjoy ample freedom of the press and of expression.²⁵²

These sentiments also featured prominently and in similar language in the government’s response to foreign expressions of concern over the disappearances, such as in the government’s official response to the U.S. State Department’s report

on Hong Kong in April,²⁵³ to the State Department's Hong Kong Policy Act report in May,²⁵⁴ and to the U.S. Congressional-Executive Commission on China's report in October.²⁵⁵

Despite these boilerplate reassertions of the health of Hong Kong's constitutional system, it was clear that mainland authorities were not cooperating with their Hong Kong counterparts. Secretary Lai made his statement of reassurance on January 27. Only three days earlier, on January 24, reporters broke the story that Hong Kong had been "sidelined" as mainland authorities permitted Sophie Choi to meet her husband, Lee, on the mainland without informing the Hong Kong government, which only learned about the meeting when Choi reported to the police upon her return to Hong Kong.²⁵⁶

In February, Lai noted that "the Police have already written to the Interpol Guangdong Liaison Office of the Guangdong Provincial Public Security Department to seek to meet with Lee Bo so as to further understand the situation."²⁵⁷ But it would be another month before Hong Kong immigration and police officials were allowed to see Lee on the mainland—and they were apparently unable to meet with any of the other Causeway Bay booksellers until they returned to Hong Kong.²⁵⁸ While Hong Kong's leaders were touting the health of the "one country, two systems" framework, their mainland counterparts were keeping them in the dark.

The Hong Kong Government's Focus on the Notification System

In its public response, Hong Kong's government, most notably Leung, its chief executive, has focused on the system of reciprocal notification that exists between Hong Kong and mainland China. Since 2001, by agreement, mainland authorities are required to notify their Hong Kong counterparts when a Hong Kong resident has been arrested or detained.²⁵⁹ The terms of the agreement itself are silent as to by when notification must be made but do establish that it should happen "as soon as practicable."²⁶⁰ In practice, the standard of 14 days has been widely applied.²⁶¹ Democratic Party lawmaker James To noted that in 90 percent of cases before that of the Causeway Bay Booksellers, notification happened within 15 days.²⁶²

The chief executive and his government originally downplayed the importance of the notification system. In January especially, after Lee was abducted from Hong Kong itself, the government could have mounted a strong objection that mainland China was not complying with its obligations to notify them. However, Leung was apparently unwilling to raise the alarm.

Mainland authorities confirmed Lee's detention to Hong Kong police on January 18, past the 14-day deadline.²⁶³ The next day, Chief Executive Leung was interpreted by critics as defending the delayed notification, particularly with his assertion that "there have been other cases where it has taken longer for Mainland authorities to respond."²⁶⁴ At that point, mainland authorities had still not notified Hong Kong authorities about the detention of Lam Wing-kee, Cheung Chi-Ping, and Lui Por, all Hong Kong residents who had already been detained for months.

Leung would later put more emphasis on the notification system, and the need to reform it, as a major part of his response to the disappearances. On June 21, in his first public comments about the case since Lam's press conference and days after Lam led the public protest, Leung promised that Hong Kong officials would review the system.²⁶⁵ Leung also told the press that he had written a letter to Beijing expressing the Hong Kong people's "concern and misgivings" over Lam's case.²⁶⁶ Although the letter reportedly addresses the subjects of cross-border law enforcement, communication with Beijing, and rights under the Basic Law,²⁶⁷ the specific content of that letter remains unknown.

Reacting to Leung's press conference, Democratic Party lawmaker Albert Ho told the press that day: "I am both surprised and disappointed to note that up to this moment the chief executive still takes the view that there is no necessity for him to take up this matter directly with Beijing. The bookseller case has posed one of the greatest challenges to Hong Kong's high degree of autonomy."²⁶⁸

Journalist Ching Cheong criticized Leung's speech both for its late timing and its content, telling PEN America: "Only after the incident became huge following Lam's press conference did he send officials up to Beijing to discuss the notification mechanism. The notification mechanism is a technical problem. The key issue is not notification—it's the violation of the 'one country, two systems' arrangement in committing cross-border law enforcement."²⁶⁹ In fixating on notification, Ching argued, the government was framing the incident as "just a procedural problem, not a political or legal issue."²⁷⁰

On July 5, Hong Kong and Beijing officials reached a preliminary agreement on improvements to the notification.²⁷¹ They agreed to summarize the nature of the allegations against the individual from the other jurisdiction being detained and to inform the other side in writing within 14 days of the detention.²⁷²

While these conversations may have been useful and the resulting agreements beneficial, they partially obscured the fact that Chinese officials had not acknowledged the illegal nature of the booksellers' abductions and incommunicado detentions, including the abduction of Lee from Hong Kong territory. At the time of the talks, pro-democracy activists told the South China Morning Post that the Hong Kong government needed to press Beijing for an explanation about what happened to the five booksellers.²⁷³

Ho told PEN America that the notification mechanism discussions were just "whitewashing." "It's useless," he said, noting that the mechanism was clearly violated in the case of the booksellers, even absent a formal legal requirement of 14 days. China "can't detain someone for months without notification, and even take them somewhere else. It was a blatant violation."²⁷⁴

Ho said he could "write an entire book" about the topics not raised in these meetings.²⁷⁵ James To noted that the substance and level of these conversations has been unclear even to legislators like himself. In conversations with executive authorities, he explains,

We asked, did Leung Chun-ying [C.Y. Leung] meet with Xi Jinping? Who met who? They didn't tell us anything.... They said they followed up [with mainland authorities], but we don't know what they followed up on.²⁷⁶

Overall, the case has demonstrated among those at the highest levels of Hong Kong's government, including the chief executive, a public unwillingness to admit that the booksellers were abducted against their will in violation of Hong Kong's autonomy within the "one country, two systems". Authorities put themselves in the untenable position of touting the general importance of Hong Kong's Basic Law without acknowledging that the legal framework of rights for Hong Kong's residents was being fundamentally challenged.

The International Community's Response

In matters of human rights, the Chinese government often responds confrontationally to international pressure. As one academic puts it, "Rather than seeking to demonstrate compliance" with human rights norms, the government instead "rebukes its international critics with increasing confidence."²⁷⁷ Given this hostile response to public expressions of alarm or outrage, foreign governments have often preferred private diplomacy in China over public condemnation of even egregious human rights violations. There are other incentives for governments to downplay Chinese abuses, including, above all, the desire to maintain beneficial trade and economic relationships.²⁷⁸ As Human Rights Watch reported on China in its 2015 annual report, "Even as China has taken major steps backwards on human rights under Xi Jinping, most foreign governments have muted their criticisms of its record, opting to prioritize economic and security issues or trying to win Chinese co-operation on issues like climate change."²⁷⁹

A number of commentators have highlighted the far-reaching legal and political repercussions of China's decision to carry out extra-judicial and extra-territorial operations to seize and detain the five booksellers.²⁸⁰ The cross-border nature of the abductions of both Lee and Gui, both of whom are foreign nationals, has helped raise the international profile of the cases and undermined China's argument that its approach to human rights issues is a purely domestic affair. As a result, the Causeway Bay situation has generated an unusual level of public criticism, particularly from authorities in Sweden, Britain, the European Union, and the United States. An analysis of these responses is particularly important, as they help illuminate the role that the international community can—and should—play in such cases.

Sweden's Response

Following Gui's abduction, Swedish authorities sought to investigate the circumstances of his disappearance and pressed China for information. The Swedish embassies in Bangkok and Beijing began investigations in November 2015.²⁸¹ In correspondence with PEN America, Anna Lindstedt, the Swedish ambassador to China, confirmed that "Swedish authorities have been working on the case ever since becoming aware of his disappearance" in November 2015.²⁸² Lindstedt added that Sweden has made "numerous enquiries ... to relevant authorities in China and to high-level representatives of the Chinese government, as well as to representatives of Hong Kong and Thailand."²⁸³

Sweden also made repeated requests to have Swedish consular officials meet with Gui. In a statement released on January 22, 2016, the embassy in Beijing noted “the repeated denial of consular access to Mr. Gui Minhái” and added that “[m]any unanswered questions remain” in his case.²⁸⁴ On January 26, Swedish minister for foreign affairs Margot Wallstrom gave a brief statement indicating that she was “very concerned” about Gui and that Swedish “efforts to bring clarity to his situation and be granted the opportunity to visit him continue with unabated intensity.”²⁸⁵

Despite these repeated efforts, Swedish diplomats were stonewalled and denied access until finally being granted a brief meeting with him on the mainland on February 24, 2016.²⁸⁶ It would be another seven months before Swedish diplomats were able to see him again, for a brief visit on September 28, 2016.²⁸⁷ The information that Swedish diplomats gained from each visit was apparently sparse. In February, Gui was reported to have told Swedish diplomats that he did not want their help.²⁸⁸ In September, Swedish officials merely reported that Gui said he was in good health.²⁸⁹

Following Gui’s the televised confession of February 2016, the Swedish embassy in Beijing declared: “We again express our concern over this type of public ‘confession,’ something that many hoped had ended in China decades ago. In a country ruled by law charges are brought in court, and the defendant responds to charges only in the presence of legal counsel.”²⁹⁰

The Gui case has not been the only incident that has strained the two countries’ relationship. On January 3, 2016, another Swedish citizen, Peter Dahlin, was detained in China. He was co-founder of an NGO conducting legal training with Chinese lawyers. Like Gui, Dahlin was seized and placed in incommunicado detention before appearing later in a confessional video; Dahlin would later explain that his statement was coerced. There are significant differences in the cases, however. Dahlin was released on medical and diplomatic grounds within a month of his arrest.²⁹¹ Gui, on the other hand, remains in incommunicado detention at the time of this report, more than a year after his abduction from Thailand. Additionally, while the Chinese government at first refused repeated requests from the Swedish embassy to contact Dahlin,²⁹² the Ministry of Foreign Affairs announced on January 13 that Dahlin would be permitted consular access,²⁹³ and Sweden was granted that access within a month. Gui, by contrast, has received only two brief consular visits in the year that he has been in detention. The difference in the two cases has led critics to argue that Dahlin—a Swedish citizen by birth—has benefitted from greater diplomatic efforts and Swedish public attention than Gui, a naturalized Swedish citizen.²⁹⁴

Michael Caster, an American human rights advocate and former colleague of Dahlin, wrote in an op-ed on the anniversary of Gui’s disappearance that “Sweden’s unwillingness to push his case as forcefully as we might expect if he was a natural born citizen” has played into China’s goal of “attempting to block his access to international support” by refusing to acknowledge Gui’s Swedish citizenship.²⁹⁵

Another critic, Beijing-based Swedish journalist Jojje Olsson, put it forcefully in a January 2016 article: “Sweden’s authorities have so far shown little interest in helping the Swedish citizen Gui Minhái. This may sadly be because Gui is not ethnically Swedish and does not have a Swedish last name.”²⁹⁶ To support his claims, Olsson pointed to a collection of Twitter comments by journalists criticizing Sweden’s “reluctan[ce] to say anything,” including one by New York Times correspondent Michael Forsythe arguing, “If Gui had blonde hair and blue eyes, ya gotta wonder.”²⁹⁷

Sweden’s government rejects these assertions, stating, “Ethnicity or any prior citizenship does not influence how the consular mission is carried out.”²⁹⁸ But Sweden has emphasized an approach of “quiet diplomacy,” preferring inter-governmental interactions over extensive public expressions of concern, and defining the case primarily as a consular one.²⁹⁹

Where Sweden has made public statements, Caster notes, it has often been in response to high-profile developments: The denunciatory statement by Foreign Minister Wallstrom in late January, for example, came after Dahlin’s televised “confession.”³⁰⁰ Wallstrom addressed both Dahlin and Gui’s cases in her brief statement.³⁰¹ A September statement from Wallstrom publicly calling for an end to Gui’s detention came after Gui’s daughter Angela Gui made a public appeal on Swedish television.³⁰²

This October, Swedish legislator Hans Linde argued, in a legislative inquiry to the foreign minister, that “as the media attention has increased” and as other governmental and inter-governmental bodies have taken up the issue, the Swedish government “needs to change its strategy.”³⁰³ Dahlin himself recently critiqued Sweden’s “quiet diplomacy” approach, concluding in an October 29 interview with Sweden’s SVT News that Sweden could more forcefully advocate for Gui: “How long has it actually been without any response from China on Gui Minhái? Should we wait another year before we start thinking about other activities to support him?”³⁰⁴

Speaking with PEN America, Angela Gui shared her views on the insufficiency of the diplomatic route, noting that while such an approach may have originally seemed to offer China a “quiet exit” in her father’s case, it has clearly failed to achieve that purpose. As she explained:

It’s been clear for months now that if they wanted to find a quiet exit, they would have done so already. And it’s quite clear to me that what they want to do is keep my father for as long as possible, and if the international community stays quiet, it’s just going to be forgotten about and the Chinese will keep him as long as they like.³⁰⁵

Angela Gui also expressed concern that the Swedish media had not done enough to raise awareness among the public that one of their citizens remains in incommunicado detention. At the Gothenburg Book Fair in September, she noted:

I saw people campaigning at the book fair, activists who were asking people to sign a petition on behalf of Dawit Isaak [a Swedish journalist imprisoned in Eritrea since 2001]. I asked them, What are you doing for the case of Gui Minhai? And they responded, “Who is that?” Almost a year since my father was abducted, that’s really a shocking response.³⁰⁶

Diplomats must use their best judgment as to when to employ behind-the-scenes diplomatic approaches and when to put forward more public expressions of protest. But more than a year of quiet diplomacy has brought very little apparent improvement in Gui’s situation, while all four of the other booksellers have been released. This would suggest the merits of attempting more assertive pressure through diplomatic and public channels, including, as Angela Gui notes, greater concern expressed on the part of Gui’s fellow Swedish citizens.

Thailand’s Response

There is very little public information available on any actions that Thailand’s government has taken in response to Gui’s abduction from Thailand. In early December, The Guardian announced that its investigations of Gui’s disappearance found that, “despite CCTV footage of the men suspected of kidnapping Gui and requests from the Swedish government to help find him, there is very little to suggest Thai authorities are following up on the case at all.”³⁰⁷ The Guardian found that “not a single police officer or government official had visited the apartment” since Gui had disappeared, in October.³⁰⁸ It further reported that its requests for comment from the Thai Ministry of Foreign Affairs and a Thai government spokesperson were unsuccessful.³⁰⁹

PEN America wrote to the Thai Ministry of Foreign Affairs in August 2016, and again in October 2016, requesting clarification as to what inquiries the ministry or any organ of the Thai government had made to the Hong Kong or Chinese government but did not receive a reply.

Thailand has a recent practice of deporting or otherwise expelling from the country ethnic Chinese that the Chinese government considers dissident, returning them to China without adequate guarantees that they will be fairly treated—an issue that may be relevant to their lack of response in this case and that the next section of this report explores in greater depth.

The United Kingdom’s Response

Successive British governments have been accused of being overly accommodating toward Beijing in their China and Hong Kong policies.³¹⁰ In particular, the government of former prime minister David Cameron and former chancellor of the exchequer George Osborne has received trenchant criticism for pursuing what they termed a “golden era” in Sino-UK relations while ignoring alarming reports of human rights violations.³¹¹ Just months before Lee’s disappearance in October 2015, Osborne referred to the UK as “China’s best partner in the West” in comments that emphasized a cooperative and dialogue-centered approach with China.³¹² During this interview, Chancellor Osborne did not deny that he preferred that Britain discuss human rights issues with China “behind closed doors.”³¹³

In one particularly sharp rebuke of this accommodating approach towards engagement with China, the Human Rights Commission of the governing Conservative Party recommended that the country reconsider the course of its diplomatic relationship in light of China’s “unprecedented” crackdown.³¹⁴ The report, which makes explicit reference to the Causeway Bay booksellers disappearances as “unprecedented and extremely alarming,” concludes that Britain’s increasingly warm relationship with China has not been “appropriately critical.”³¹⁵

The British response to the abduction of Lee is therefore noteworthy for its forcefulness. On January 5, 2016, the Foreign & Commonwealth Office confirmed to the *Hong Kong Free Press* that one of the disappeared booksellers was a British citizen.³¹⁶ On the same day, then-foreign secretary Phillip Hammond stated, during a press conference alongside Chinese foreign minister Wang Yi, that his government had “urgently enquired both of the Hong Kong authorities and of the mainland Chinese authorities what if anything they know of his whereabouts.”³¹⁷ It was in response to this comment that Wang declared that Lee was “first and foremost a Chinese citizen.”³¹⁸

British inquiries continued. On January 22, then-minister of state Hugo Swire raised the case with the Chinese Ambassador to the United Kingdom and “made clear the need for the Chinese authorities to return Mr. Lee to Hong Kong immediately.”³¹⁹ During February 2016, then-prime minister David Cameron brought forward Lee’s case to the Chinese authorities.³²⁰ The foreign secretary again raised Lee’s case to the Hong Kong and Chinese authorities in early April,³²¹ and the under secretary of state did so again in Beijing in August.³²²

Britain made its strongest public statement on the abductions on February 11, 2016, in its biannual report on developments in Hong Kong between July and December 2015. Previous biannual reports received criticism for being overly tepid: An inquiry into the Joint Declaration by the UK House of Commons’ Foreign Affairs Committee concluded that the reports offered “bland” accounts of events that “fall some way short of indicating the UK’s position on developments in Hong Kong.”³²³ But in the Foreword to the February report, Secretary Hammond referred to the abductions of the booksellers, and specifically to Lee having been “involuntarily removed to the Mainland without any due process under Hong Kong SAR law.” The Foreword went on to characterize Lee’s abduction as “a serious breach of the Sino-British Joint Declaration,” which is particularly significant as it’s the first time the Foreign & Commonwealth Office (FCO) has made such an accusation in the history of the 1984 declaration.³²⁴

The FCO under secretary of state Boris Johnson again raised Lee’s abduction in the regular report on developments in Hong Kong between January and June 2016, issued on October 12, 2016. In the foreword, secretary Johnson referred to “specific concerns about the integrity of Hong Kong’s law enforcement” arising out of the abduction of the booksellers. He continued:

As our previous six-monthly report said, Mr Lee’s involuntary removal from Hong Kong to the Mainland constituted a serious breach of the Sino-British Joint Declaration by undermining the ‘One Country, Two Systems’ principle. Although Lee Bo has now returned to Hong Kong, the issues raised by the case remain of concern.³²⁵

Throughout this public engagement on the issue, British diplomats were repeatedly denied consular access to Lee. In early March, soon after his scripted video renouncing his British identity, a British spokesman acknowledged that they had been denied consular access.³²⁶ In April, after Lee had apparently been released from detention, then-minister Swire confirmed in an answer to an MP’s written question that consular access still had not been granted.³²⁷

As the former governmental power for Hong Kong and co-signatory to the Sino-British Joint Declaration, Britain has special reason to be concerned about developments there that infringe upon free speech. It also has opportunities for public pressure that other countries do not, strengthening its ability to engage in highly-visible advocacy. The FCO’s declaration of breach of the Sino-British Joint Declaration is one such example. The legal effect of such an allegation is minimal—by design, the Joint Declaration contains no mechanisms for alleging breach or resolving disputes,³²⁸ and China has increasingly hinted that it may not consider the Joint Declaration in effect any longer.³²⁹ Nonetheless, public declarations of breach can play a role in alerting Hong Kong domestic and international audiences to the severity of the incident.

In order to maintain the effectiveness of such advocacy, however, the British government must highlight the serious nature of such a breach. Yet not all British responses to Lee’s abduction have been critical. In an interview with the *Hong Kong Free Press* in August 2016, outgoing Consul-General to Hong Kong Caroline Wilson downplayed its significance:

This year, yes, it’s true for the first time we did have to declare there had been a breach – one breach of the Joint Declaration, I think in almost twenty years that is a remarkable achievement to have only said that once....

I don’t think lasting damage has been done provided there is no repetition – as I say, there’s no evidence to suggest there will be a repetition, and indeed the evidence says that maybe some lessons have been learned.³³⁰

Whether lessons have been learned remains in question, given China's refusal to formally acknowledge its role in the booksellers' disappearances. Until China issues a forthright clarification, Britain should continue to advocate not only for the rights of one of its citizen, but more broadly for the preservation of free expression and freedom of the press in Hong Kong.

The European Union's Response

The European Economic Community, precursor to the EU, established diplomatic relations with China in 1975.³³¹ Despite ongoing trade disagreements,³³² China is now the EU's biggest source of imports (and vice versa).³³³ The EU and China periodically conduct human rights dialogues, but these have been criticized for imposing "no true pressure for reform."³³⁴ Nonetheless, the EU has repeatedly expressed concern over the disappearances of the Causeway booksellers, emphasizing that both Lee Bo and Gui Minhai are citizens of member states of the EU.

In a statement on January 7, 2016, the European Commission referred to the "continuing lack of information about the well-being and whereabouts" of the booksellers as "extremely worrying" and noted that the operation of mainland state security in Hong Kong would be a violation of the Basic Law and framework of "one country, two systems." The statement also called on Thai, Chinese, and Hong Kong authorities to "investigate and clarify the circumstances of the disappearances in conformity with the rule of law."³³⁵ In a subsequent Annual Report on Hong Kong to the European Parliament and the Council of the European Union of April 25, 2016, the European Commission added:

The EU considers the case of the five book publishers to be the most serious challenge to Hong Kong's Basic Law and the 'one country, two systems' principle since Hong Kong's handover to the PRC in 1997. The case raises serious concerns about respect for human rights and fundamental freedoms and about the application of PRC criminal law to acts that are not punishable under Hong Kong law.³³⁶

This particular language underlines the Commission's concern that the case, beyond the particulars of the abductions themselves, should also be interpreted as a serious blow against Hong Kong's autonomy. The Commission warned that the incident could have further ramifications for Hong Kong's international reputation:

The case has potentially lasting implications for Hong Kong's rule of law and could impact on Hong Kong's standing as an international business centre. The EU calls on the Central Government to fully respect the constitutional arrangements for Hong Kong SAR within the PRC, and restore the trust placed by Hong Kong residents as well as the international community in the Basic Law and the 'one country, two systems' principle.³³⁷

The European Parliament also issued a resolution on February 4, 2016, expressing "grave concern over the lack of knowledge about the whereabouts and well-being" of the booksellers, and calling for their immediate safe release.³³⁸ In a letter to PEN America, an official from the European External Action Service indicated that the British and Swedish governments' engagement has included "a concerted effort with the EU institutions."³³⁹

The United States' Response

The United States has a long track record of vocal engagement on human rights issues in China.³⁴⁰ Although some critics argue that this approach has waned as issues of trade and foreign investment have come to the fore,³⁴¹ U.S. authorities have publicly condemned Chinese actions during the booksellers' case.

During a press briefing on January 8, 2016, spokesperson John Kirby said that the State Department was "disturbed" by reports of the disappearances and that "we share the concern of the people of Hong Kong regarding these disappearances."³⁴² The State Department also specifically referred to the case in its China 2015 Human Rights Report of April 2016 and its Hong Kong Policy Act Report of May 2016.³⁴³ The latter report noted:

Hong Kong's highly developed rule of law and respect for individual rights have long been pillars of its high degree of autonomy. For many in Hong Kong, Lee Bo's disappearance suggests the Central Government is increasingly willing to side-step Hong Kong's professional law enforcement agencies, in the process denying Hong Kong residents due process. Apparently coerced video and written confessions by the publishers transmitted via China's state-controlled media sowed further doubts about the publishers' fate and the consequences for Hong Kong's promised high degree of autonomy through 2047. Some Hong Kong bookstores decided in early 2016 to remove books banned on the Mainland, raising concerns about decreasing press freedom and freedom of expression in Hong Kong.³⁴⁴

In addition to the State Department, the Congressional-Executive Commission on China (CECC), an independent agency of the U.S. government that monitors human rights and rule of law developments in China, has expressed concern about the booksellers. The CECC issued statements in January and March 2016 that referred to the disappearances,³⁴⁵ and it held a hearing on May 24, 2016, addressing Chinese efforts to silence critics abroad, including the abduction of Gui from Thailand.³⁴⁶ In its 2016 Annual Report, the CECC cited the booksellers' case as an example of the "renewed threat of interference" with Hong Kong's promised "high degree of autonomy."³⁴⁷

Summary of International Criticism

In March 2016, Keith Harper, the U.S. ambassador to the United Nations Human Rights Council, delivered a statement on behalf of 12 countries—Australia, Denmark, Finland, Germany, Iceland, Ireland, Japan, the Netherlands, Norway, Sweden, Britain, and the U.S.—regarding the human rights situation in China. The statement referred to the booksellers' disappearances and other cases in the following terms:

We remain concerned about the unexplained recent disappearances and apparent coerced returns of Chinese and foreign citizens from outside Mainland China. These extraterritorial actions are unacceptable, out of step with the expectations of the international community, and a challenge to the rules-based international order. The actions involving individuals in Hong Kong represent a violation of the high degree of autonomy promised Hong Kong under its Basic Law.³⁴⁸

China watchers were quick to note that this marked the first collective statement on China in the Human Rights Council's 10-year history.³⁴⁹ Such an unprecedented 12-country statement demonstrates how the Causeway Bay booksellers' disappearances have elicited more public and sustained international criticism than many other human rights or free expression cases involving Hong Kong and China. This is a consequence of the high-profile extra-judicial nature of the abductions, including of foreign citizens, outside the bounds of Chinese legal authority.

China's response to this joint statement was similarly instructive. After the joint statement, Chinese diplomat Fu Cong addressed the Human Rights Council with blunt and protracted accusatory language against the United States and Japan, two of the co-sponsors.³⁵⁰ As one analyst noted, "The quick and angry response of Beijing reveals that the Chinese leadership does care about how their budding great power is viewed internationally. Were they not concerned, a retort would not have been necessary."³⁵¹

With this suggestion of Chinese sensitivity to criticism, with Gui still in incommunicado detention, and with a continuing lack of clarity about whether coercion remains a factor in the situations of three of the other four booksellers, the necessity of a unified and substantive international response to the booksellers' case remains strong. As Sophie Richardson, the China director of Human Rights Watch, has noted, the lack of "meaningful consequences" for China's abductions of its own and of foreign citizens will "only embolden the Chinese government."³⁵²

A CHILL IN THE AIR

The Aftermath of the Disappearances

In the absence of an official explanation or even acknowledgment by Chinese authorities, it remains unclear just why China took such extreme measures against these five individuals, the Mighty Current publishing company, and Causeway Bay Books. In interviews with PEN America, several related theories have emerged: to prevent the publication of a particular book; to gain access to the mainland citizens who served as anonymous sources for Mighty Current's publications; to obtain the list of Causeway Bay Books' mainland customers; or to shut down the biggest publisher of tabloid-style political exposés and to send a message to all other publishers of similar books.

This constellation of theories, none mutually exclusive and none confirmed, has created an atmosphere of uncertainty. It is impossible for independent publishers who produce books critical of China's rulers to know how not to cross the line and become the next targets because it is unclear where that line is drawn. The only sure response is to take no steps at all.

One interviewee, discussing the reason for the abductions, cited a Chinese proverb: "Kill the chicken to frighten the monkey."³⁵³ This phrase captures the suggestion that Mighty Current Media was targeted as a warning to the entire publishing industry in Hong Kong to stop selling books that Chinese authorities wish to be forbidden in China. Whether this was indeed the motivation for disappearing the booksellers, those who spoke with PEN America affirmed that there indeed has been a significant chilling effect on Hong Kong's publishing industry.

Journalist Ching Cheong told PEN America that immediately after the booksellers disappeared, "many bookstores which used to sell these books greatly reduced the space [for such books]. They don't want books of a sensitive nature anymore."³⁵⁴ He explained that people across the publishing field started to worry: "Whether it's publishing, printing, or distribution in Hong Kong, it will bring political consequences."³⁵⁵

The exiled author Yu Jie echoed this sentiment, calling the disappearances a "major turning point" in Hong Kong's publishing history.³⁵⁶ With the abductions from Thailand and Hong Kong came the realization that places outside mainland China were no longer safe, and "this fear caused many publishing houses to abandon publishing sensitive books."³⁵⁷

The 2016 Hong Kong Book Fair

This chill was on evidence at the 2016 Hong Kong Book Fair. One of the largest book fairs in the world, this annual event has been described by The Guardian as "the most important event in the city's literary calendar."³⁵⁸ The impact of the booksellers' disappearances was noticeable at the 2016 iteration, which had fewer stands selling politically sensitive books than in previous years.³⁵⁹

Publisher Bao Pu estimated to PEN America that the great majority of politically sensitive books that would normally be available at the book fair were absent.³⁶⁰ Some independent publishers were missing altogether; Mighty Current, of course, but also Mirror Media Group, which publishes political page-turners as well.³⁶¹ An editor at Chinese University of Hong Kong Publishing told The Guardian that publishers were feeling the impact of the mainland's tightening grip: "The impact on the Fair is very strong. The controls on travelers have been strengthened, and many [mainlanders] who came to Hong Kong to buy books censored in mainland China have stopped buying them, as they may get in trouble at the border."³⁶² The director of Subculture Press, a small company that publishes politically sensitive works, described a climate of "white terror" in the industry following the booksellers' disappearances, with the production of sensitive books all but ground to a halt due to fear of possible consequences.³⁶³

Political commentator Song Pu and his publisher Wu Yisan were set to publish his new book, *The Beginnings of CY Leung and Xi Jinping's Dictatorship*, and planned to release it at the fair.³⁶⁴ After Song sent out a press statement in mid-July announcing the upcoming release, Wu received a phone call from somebody claiming to be connected to the Chinese Communist Party.³⁶⁵ Wu told Song that his personal safety was at risk and that he could not publish the book.³⁶⁶ He also told Song that the caller had said that if Wu persisted in publishing it, he would end up like "a certain somebody," which Song reportedly took to be a reference to the Causeway Bay booksellers.³⁶⁷ After much persuasion from Song, Wu

eventually distributed the book, and it was available at the fair.³⁶⁸ Wu himself, however, did not take part in its release; he went out of town that day.³⁶⁹

Aside from the fair, new political books are finding themselves without Hong Kong publishers. Printers, for example, are no longer willing to print politically sensitive books.³⁷⁰ Bao Pu's long-standing printer, Asia One Printing, rejected his most recent book after the booksellers disappeared and told Bao that it would not print any more of his books, regardless of their content.³⁷¹

Controversial Book Titles

Yu Jie, an exiled writer, Chinese democracy activist, and founding member of the Independent Chinese PEN Centre, has written more than 30 books, including critical portrayals of Chinese political figures. In 2015, he made an agreement with Open Books, a publisher run by Jin Zhong, to publish his book *Xi Jinping's Nightmare*. Jin had published the book's precursor, *Godfather of China: Xi Jinping*. But after Lee Bo's abduction, Jin called off publication of *Xi Jinping's Nightmare*.³⁷²

Shortly after Lee disappeared, Jin told Anthony Kuhn of National Public Radio, "Hong Kong people, especially in my industry, feel they're in danger. If mainland agents are really being sent here to abduct people, then that is terrifying."³⁷³ In an interview with Hong Kong's Stand News in January 2016, Jin said that times had changed since he published *Godfather of China: Xi Jinping*. With the abduction of Lee Bo, he said, the mainland had crossed a line, and "who wouldn't be afraid?"³⁷⁴ Jin wrote an email to Yu Jie, apologizing and explaining:

The difficulty of publishing political books in Hong Kong is already in the international spotlight. People in the industry are feeling great fear and pressure; they want to stay out of trouble so that they won't be the next one [to disappear]. I received many calls from friends and family trying to persuade me. Because of that, we decided after much deliberation to suspend the publication of your work.³⁷⁵

Yu told PEN America that after Open Books withdrew from its agreement, he reached out to several other publishers in Hong Kong that also refused to publish his book.³⁷⁶ "They would vaguely mention the disappearances, say that they were worried for their personal security, and say that even if they were to publish [the book], there was no bookstore that would sell it," he explained. "One publisher told me that his relatives told him they didn't want him to be a second Lee Bo."³⁷⁷ Yu told PEN America that *Xi Jinping's Nightmare* was eventually published in Taiwan but that most Hong Kong booksellers "did not dare to import the book to Hong Kong."³⁷⁸

In February 2016, Jin moved to the United States to join his wife and daughter.³⁷⁹ He denied that Lee Bo's abduction was the reason he left Hong Kong.³⁸⁰ His parting advice, before making the move, was "You're on your own and conduct yourselves well, people of Hong Kong."³⁸¹

An exiled Chinese writer told PEN America that *2017: Upheaval in China*, the recent memoir of the long-persecuted Chinese human rights lawyer Gao Zhisheng, was published in Taiwan because its original Hong Kong publisher withdrew and another Hong Kong publisher could not be found.³⁸² The book's supporters also had difficulty finding a distributor in Hong Kong.³⁸³ In the end, the book was distributed in Hong Kong directly from Taiwan.³⁸⁴

The Closing of Bookstores and Publishing Houses

After the booksellers' disappearances, a number of independent bookstores specializing in books about mainland politics began closing their doors. A year after the disappearances, it is too early to ascertain the extent to which booksellers are shuttering their operations—or restricting their activities—due to the chill. But anecdotal evidence suggests that the disappearances have thinned the ranks of independent publishers and bookstores.

For example, 1908 Press, which exclusively carried books forbidden in China, quietly shut its doors in early February 2016.³⁸⁵ According to a Radio Free Asia report, an unnamed source knowledgeable about the situation said the bookstore's sales had suffered a notable decline, a result of tighter border controls and tour guides' warnings about banned books.³⁸⁶ The radio station reported that the store had been operating at a loss for several years and the disappearances were the final straw, convincing the owners to shut it.³⁸⁷ According to several sources PEN America spoke with, Causeway Bay Books itself was purchased by China national and is not expected to continue selling sensitive books.³⁸⁸ As of the time of this report, Causeway Bay Books remains closed in the wake of the disappearances.³⁸⁹

In April 2016, CNN reported on the closure of bookstores at the Hong Kong International Airport that had done brisk business in books censored on the mainland.³⁹⁰ Now 11 out of 16 bookstores at the airport that had carried political books about China, both sensational and more serious works, have closed.³⁹¹ Renee Chiang, co-owner of New Century Press with her husband, Bao Pu, described the airport bookstore closures as “another nail in the coffin of independent publishing in Hong Kong.”³⁹² Page One, a Singapore-owned chain, closed all six of its airport bookstores.³⁹³ The French-owned Relay bookstore chain has halved its presence at the airport, leaving five stores that can be accessed only after check-in.³⁹⁴ Conversely, however, the Chung Hwa Book Company, an imprint of the Chinese government-affiliated Sino United Publishing, is now expanding its presence at the airport.³⁹⁵

Fears for Personal Safety Outside the Publishing Industry

The booksellers’ case and Lee’s abduction from Hong Kong in particular left people in Hong Kong deeply unsettled. Those PEN America spoke with were unified in their sentiment that the feeling of safety from persecution for exercising free expression had profoundly diminished.

Poet Bei Ling told The New York Times: “It’s hard to believe this kind of thing would happen in Hong Kong. It’s struck fear into the whole Hong Kong community.”³⁹⁶ Maya Wang, a researcher for Human Rights Watch in Hong Kong, told PEN America that the incident was a “game changer.” She continued, “We believed a knock on the door to take you away would not happen in Hong Kong. This is a wake-up call. Now we know that it can happen here, and people are wondering, who’s next?”³⁹⁷ The veteran political journalist Francis Moriarty similarly told PEN America:

The big threat is that being outside of the mainland and having foreign citizenship do not necessarily protect you. This affects everyone, not just people in the book trade. And the worry was increased by what has been seen as the government’s limp response.”³⁹⁸

After Lee disappeared, veteran China analyst Willy Lam of the Chinese University of Hong Kong stated:

Not just the publishing and media circles, but the entire Hong Kong society, including people who do business in [mainland] China, and who might have commercial disputes with Chinese companies or different parts of the Chinese government, might fear for their safety because of such a very dangerous precedent.”³⁹⁹

James To Kun-Sun, the Democratic Party legislator, noted that “even those in business” who are not normally “fans” of the Democratic Party’s liberal platform “still think this is a matter of concern. And those who get on the wrong side of China the most are those doing business with them.” People who were not originally particularly concerned with politics, he said, have “become a lot more nervous, because they don’t know what might put them on the bad side of China.”⁴⁰⁰

Journalist Ching Cheong explained:

The reason Causeway Bay bookstore caused such a stir is because they have damaged Hong Kong people’s safety baseline. Everyone’s knowledge of the safety baseline was that “if my actions are legal in Hong Kong, even if mainland dislike it, if I don’t go into the mainland I would be safe.” That was everyone’s belief before the Causeway Bay bookstore incident. After the incident, this baseline has been lost. Not going into the mainland is no longer their last line of defense—the mainland authorities can still come and capture you. That means now the only thing you can do is to temporarily avoid publishing what can be considered offensive by the mainland leaders and those in power. This greatly impacts the Hong Kong freedom of publishing negatively and affected the society because there is no safety baseline anymore.”⁴⁰¹

One Country, One System?

The Causeway Bay Books disappearances occurred within a larger context: that of increasing uncertainty within Hong Kong about the viability of the “one country, two systems” framework. Dissatisfaction with the Hong Kong government and concern about mainland encroachment and backsliding on promises such as universal suffrage fueled the Umbrella Movement in Hong Kong two years ago.⁴⁰² The most recent Legislative Council elections, in September 2016, saw the selection of a range of “localist” candidates who, despite their internal political differences, all reject closer ties to Beijing.⁴⁰³

Lam Wing-kee, in his June 16 press conference, commented explicitly on his own disillusionment, saying that the Chinese government “talks about ‘one country, two systems.’ But my personal experience and that of my colleagues says otherwise.”⁴⁰⁴

Among the writers, publishers, journalists, and others with whom PEN America spoke, there was a range of responses about what the disappearances signified for the framework—a serious blow to “one country, two systems,” a “wake-up call,” perhaps both.⁴⁰⁵

Freelance journalist Francis Moriarty told PEN America that the disappearances were “a big kick in the shins and a wake-up call. One country clearly trumped two systems.”⁴⁰⁶ Ching told PEN America that confidence in the framework was “completely destroyed.” Caroline Chan, a longtime employee of the independent Sum Kee Book Store (which carries more serious political titles), told PEN America:

How did Hong Kong become like this? They still say, ‘one country, two systems’—it’s long gone. After this incident, I wouldn’t sell any books on ‘one country, two systems’ anymore. Before, I did. I have no confidence in it anymore. I’ve gotten rid of all the books on it. [One country, two systems] has been destroyed.⁴⁰⁷

Others who spoke to PEN America were somewhat more optimistic. Publisher Jin Zhong, for example, said, “We can’t say that ‘one country, two systems’ has failed,” noting that Hong Kong still has a certain measure of freedom of press and publication, and the freedom to protest and form political parties.⁴⁰⁸ Ho Pin of Mirror Books similarly emphasized relative press freedom and legal protections, saying, “Hong Kong law up until now is still an important cornerstone of Hong Kong, and it plays a big role in protecting Hong Kong’s freedom of the press and freedom to publish.”⁴⁰⁹

Disillusionment may have contributed to the increasing localist sentiment seen in the 2016 elections for Hong Kong’s Legislative Council, which had high voter turnout.⁴¹⁰ While localists may fall into different camps, from advocates of greater autonomy to those who call for self-determination or even outright independence, the common ground is resistance to interference from Beijing. The movement in many ways traces its origin to the 2014 Umbrella Movement protests. Although only six localist candidates took seats, localist parties overall won nearly 20 percent of the popular vote, an impressive result for the newly-formed political movement.⁴¹¹ Asked to interpret the results, newly elected Baggio Leung, of the localist Youngspiration party, said they show that Hong Kong residents “are starting to lose confidence in ‘one country, two systems’ and the Basic Law.”⁴¹²

Analysts interviewed by PEN America noted that concerns about retaining democracy in Hong Kong have been accumulating, leading to the 2014 Umbrella Movement protests, but said the booksellers’ disappearances had a role in mobilizing voters. Moriarty, for instance, said: “A significant portion of Hong Kong people realized that they need to react to a direct threat to their core values and way of life. And the events fueled the localist movement, as we saw in the results of the Legislative Council election.”⁴¹³

In the immediate aftermath of the election, analysts predicted that the election of localist legislators would bring “headaches” to Chinese government officials in managing their relationship with Hong Kong.⁴¹⁴ Their predictions have proved true, as the first meetings of the new Legislative Council have been rife with controversy over localist legislators’ attempts to alter their oath of office.⁴¹⁵ Although the Causeway Bay Books case has led to fear in Hong Kong’s literary and publishing community and more broadly, it may also have led to a level of dissatisfaction that encouraged more assertive political activism. Describing to PEN America why she has bought more political books to stock in her bookstore, Chan said, “After the Causeway bookstore incident and Lam Wing-kee, I was angry.... I am more angry than worried.”⁴¹⁶

CHINA'S EXPANDING REACH

Shrinking Space for Free Expression in Hong Kong

The Causeway Bay Books abductions are troubling not only because of infringements on the rights of the booksellers and the chilling effects on publishing in Hong Kong but also for what they indicate about China's muscular approach to targeting critics regardless of geographical boundaries, legal protections, or nationality. While China has long been known for a repressive approach toward independent and critical expression for its own people and within its own borders, Beijing has shown a growing propensity to expand the reach of its censors and security forces to quash dissent and punish defiance more widely.

In recent instances, China acted with force and in the absence of any cognizable legal authority within China itself or in Hong Kong and elsewhere. In response to criticism, China doubled down on claims that the abductions and related abuses were an internal affair. China's brazen insistence that its legal reach extends to Hong Kong, to Chinese nationals abroad, and even to ethnic Chinese residing in neighboring states is an affront to the "one country, two systems" principle and, in some cases, to national sovereignty. Relatedly, given the evidence that the booksellers' forced confessions were staged, China appears to have induced the booksellers themselves to disclaim all ties to other countries and offers of help from foreign governments as well as Hong Kong authorities. In short, China's actions evince a new approach, pushing out the elbows of its intolerance of dissent and relying on force rather than law to target perceived offenders wherever and whoever they may be.

Forced Confessions

For all five booksellers, their official "reappearances" from their disappeared state occurred through confessional videos.

On January 17, 2016, a videotape of Gui making a confession appeared on the state-run Chinese Central Television (CCTV).⁴¹⁷ Gui claimed that he "voluntarily" turned himself in to Chinese authorities in October 2015 to take responsibility for allegedly fleeing China in 2004 while supposedly serving a suspended sentence for a 2003 fatal hit-and-run accident in Ningbo.⁴¹⁸ In the video, Gui's shirt inexplicably changes color between cuts, suggesting that this supposedly unpracticed confession was filmed in more than one take and possibly over more than one day.⁴¹⁹ His daughter Angela Gui, in her testimony before the Congressional-Executive Commission on China, described the CCTV piece as "a clearly staged and badly put together confession video."⁴²⁰

At the end of February 2016, all five of the disappeared booksellers appeared in exclusive "interviews" on Hong Kong-based Phoenix Satellite Television while they were still in custody on the mainland. Four of the booksellers, Lam, Gui, Lee, and Cheung, "confessed" to "illegal book trading" and expressed regret for their actions.⁴²¹ The circumstances of their confessions, observers have concluded, similarly strongly indicate that they were made under duress.⁴²²

Lam published a detailed account of his own detention and interrogation in June of 2016. His piece describes how his filmed confessions followed a script given to him by Chinese agents, which he read "mechanically, word by word."⁴²³ "There was a director and a script," he said.⁴²⁴ Lam also mentioned how he had been handed a document to sign before the interrogations began that stated that he would not contact his family or hire an attorney. He felt that he had "no choice but to sign it."⁴²⁵

A similar dynamic was apparently at play with bookseller Lee Bo's communications with his wife, in which he said that he had left Hong Kong of his own volition to assist with a criminal investigation on the mainland. Lee also gave an interview to Phoenix on February 29 in which he repeated the claim that his presence in China was voluntary.⁴²⁶ Many observers noted that these comments also appeared to be scripted, with, for example, Professor Willy Lam of the Chinese University of Hong Kong concluding that "there is every reason to suspect that he spoke under duress."⁴²⁷

These tense appearances are part of an intensifying pattern of televised and videotaped confessions by high-profile suspects, including human rights activists and others, within China.⁴²⁸ Since President Xi Jinping took office in 2012, the use of such televised videotaped confessions of high-profile suspects has become increasingly commonplace.⁴²⁹ In recent years veteran journalist Gao Yu, Chinese-American businessman and blogger Charles Xue, human rights lawyer Wang Yu, legal assistant Zhao Wei, and Swedish NGO worker Peter Dahlin made purported confessions on television that bore clear indicia of being coerced.⁴³⁰

In all such cases, the subjects were in Chinese custody at the time their confessions were made, and they did not have access to an attorney or to family members. In virtually every instance—including that of the Hong Kong booksellers—they were first disappeared and held incommunicado by the Chinese security apparatus before reappearing on Chinese TV with their confessions.⁴³¹

Also in these cases, the Chinese government exerted considerable leverage over the suspects, all of whom were either Chinese citizens or had Chinese family members or other loved ones vulnerable to the reach of the Chinese security state. At the time of Swedish citizen Peter Dahlin's confession, for example, his Chinese girlfriend Pan Jinling was also in custodial detention.⁴³² Human rights lawyer Wang Yu's confession was televised in August 2016; later that year, her teenage son was abducted by Chinese agents in Myanmar after fleeing the country. Most of the Causeway Bay booksellers, including Lee and Gui, both of whom hold foreign passports, still have family in mainland China. The one exception is Lam Wing-kee—which may explain why he is the only one of the four released booksellers to speak openly about his ordeal.⁴³³

In a piece for The Washington Post, Chinese dissident lawyer Chen Guangcheng explains how Chinese security forces use their leverage to exact confessions:

I know that the authorities' attempts at extracting confessions usually begin with threats: threats to one's ability to work (confiscating a license to practice law, for instance) or threats to one's family or loved ones. In the latter case, they might start by threatening to prevent a child from attending school or getting a job, though suggestions of physical harm are not off the table. If prisoners do not bow under this psychological pressure, often delivered over days or weeks while the victims are tied to a chair, the authorities might move to physical torture.... And in the most horrific cases ... only bodies have come out, battered and bruised, with their families left to search in vain for answers.⁴³⁴

Two different "confessors" have recently gone public to explain that their confessions were indeed given under duress. Peter Dahlin, the Swedish human rights activist, has told The New York Times that two weeks into his detention, he and a broadcaster from CCTV were sat down in front of a camera and he was ordered to read his "confession" from a prewritten script.⁴³⁵ And as noted previously, Lam has since explained the circumstances behind his own forced confession.

As Jerome Cohen, director of the NYU's U.S.-Asia Law Institute and noted academic on China, explains in an analysis, these scripted confessions and statements serve a two-fold purpose in politically sensitive cases: They are used "to squelch publicity abroad" and to "circumvent the PRC criminal procedure protections that are supposed to come into play if someone is formally detained under the criminal law rather than 'volunteering' to cooperate."⁴³⁶ Cohen has served as an adviser in several cases involving forced confessions in China.

Chen explains that forced confessions are also intended to sow doubt among colleagues of the suspect, creating mistrust in communities of dissidents and independent thinkers. Chen discerns that the decision to air the most recent round of confessions on a Hong Kong news channel rather than state-owned Chinese television was aimed at countering rising skepticism among the Chinese about the veracity of this spate of similar-sounding confessions among those accused of challenging the state. In his judgment these actions "reveal unease in the party, which is clearly aware that the Chinese people are no longer easily duped."

Though China's forced confessions no longer carry much currency internationally and may be viewed with great skepticism by foreign and domestic audiences alike, China has continued to use the tactic. It recently began streaming an eight-part TV series of confessions from allegedly corrupt officials entitled *Always on the Road* and co-produced by CCTV and the Central Commission for Discipline Inspection, a government anticorruption agency.⁴³⁷

Televised confessions made under duress by detainees who are deprived access to counsel contravene the fair trial rights contained in the Universal Declaration of Human Rights, Article 14 of the International Covenant on Civil and Political Rights (ICCPR), and provisions of China's Criminal Procedure Law, including the prohibition against self-incrimination.⁴³⁸ In practice, these coerced confessions render any fair trial a mere formality. The prominent human rights lawyer Liu Xiaoyuan told the Los Angeles Times in 2014 that "judges will feel a lot of pressure to render guilty verdicts" in cases where there has been a confession, notwithstanding signs that it was forced.⁴³⁹

China has received significant international criticism for its use of forced confessions. Most notably, the unprecedented March 2016 Joint Statement on human rights in China, issued by 12 countries at the U.N. Human Rights Council, specifically referenced forced confessions, stating:

We also note with concern the increasing number of individuals whose confessions have been aired on state media prior to any indictment or judicial process. These actions run contrary to the fair trial guarantees enshrined in China's laws and counter to the rights and freedoms set out in the Universal Declaration of Human Rights.⁴⁴⁰

China's State-Controlled Media in Hong Kong

Not surprisingly given the level of state control of media, coverage of the Causeway Bay Books case on the mainland has differed notably from the coverage in Hong Kong and abroad. The mainland coverage has credited the official Chinese government version of events, generally characterizing the incidents as relatively routine and thereby legitimizing the Chinese government's tactics. The mainland coverage has also stressed that Hong Kong and foreign news reports have exaggerated the significance of the abductions, maintaining instead that these are simple criminal cases. A January article from state-owned Xinhua, for example, framed the issue for domestic audiences: "The case of Gui Minhai has become of a point of overseas attention—the news of 'the disappearance of the Causeway Bay Books manager' has been hyped by some Hong Kong and foreign media."⁴⁴¹ Another example is a June editorial from Global Times. Describing Lee's confession to "illegal business," the editorial argues: "This legal issue can only be addressed through legal channels.... Some radical people and media in Hong Kong have announced that 'one country, two systems' has been destroyed. This is an exaggerated and ridiculous accusation."⁴⁴²

One particularly notable article from Chinese state media, a January editorial in Global Times, went further when it seemed to indicate that China's extraterritorial behavior was normal, concluding that it was "reasonable" for police to "circumvent the law when they seek cooperation from an individual for an investigation."⁴⁴³ Read as a tacit admission from China that it had conducted extraterritorial abductions of the booksellers, legislators repeatedly brought this article to the attention of Hong Kong government officials during legislative question-and-answer sessions.⁴⁴⁴

China has moved aggressively to challenge any domestic coverage that does not fit its official narrative. When Lam spoke out about his abduction and said that his confession had been false, Chinese authorities sent a June 17, 2016, directive to all Chinese media outlets to find and delete an article that had been published in the state-run Global Times that referenced his account simply to refute it. These censorship instructions were leaked and distributed online.⁴⁴⁵ Although the censored Global Times story had dismissed Lam's claims as having "little substance," the story repeated his account and included an ambiguous line drawing a distinction between the claim that Lam was forced to confess and the other charges against him. It also referred to the practice of televised confessions as "spark[ing] some controversy" on the mainland.

Seemingly aware of the widespread skepticism toward its state media reports, Beijing has engaged sympathetic Hong Kong outlets to reinforce its perspective. As PEN America documented in its 2015 report "Threatened Harbor: Encroachments on Press Freedom in Hong Kong," China has been engaging in heightened levels of control over Hong Kong media, pressuring independent outlets and securing major platforms in sympathetic hands.⁴⁴⁶ A more recent PEN America report, "Darkened Screen: Constraints on Foreign Journalists in China," describes the shuttering of the South China Morning Post's Chinese-language coverage soon after its purchase by Chinese mogul Jack Ma.⁴⁴⁷ Today, Chinese governmental entities or mainland corporations either have stakes in or directly control nearly a third of Hong Kong mainstream news outlets.⁴⁴⁸ In the case of the booksellers, China utilized Hong Kong outlets at its disposal to reinforce its messages through the clearly scripted confessional interviews.

Gui's first confession, in which his shirt mysteriously changes color and he says he went to the mainland voluntarily, was given on January 2016 to China's state-owned CCTV.⁴⁴⁹ The next few bookseller interviews, however, were primarily conducted by nominally private Hong Kong-based media. On February 28, Lui, Cheung, Lam, and Gui all provided interviews to Phoenix Television, confessing to conducting illegal operations in connection with their bookselling business. The next day, Lee similarly gave an interview to Phoenix, alleging that he traveled voluntarily to the mainland and offering to revoke his British citizenship. Reporters from Hong Kong's Sing Tao Daily News and the state-funded mainland digital outlet Thepaper.cn also had access to Lee that day, although almost all the questions addressed to Lee were asked by Phoenix.⁴⁵⁰

In late June, after Lam’s press conference, Sing Tao Daily was given a series of exclusive interviews on the mainland with Lui, Cheung, and Lam’s purported girlfriend.⁴⁵¹ It was in these interviews that all three denied Lam’s claims and called him a liar.⁴⁵²

All of these publications have significant connections to mainland China and are generally known for their pro-Beijing approach to reporting. Phoenix Television, although based in Hong Kong, identifies mainland China as its target audience. Phoenix is also among the few private television broadcasters permitted to operate in mainland China.⁴⁵³ Liu Changle, the CEO of Phoenix, is a member of the Chinese People’s Political Consultative Conference, China’s top political advisory body.⁴⁵⁴ In the 1990s, Liu gave a 10 percent stake in Phoenix to CCTV, its state-sponsored competitor, explaining that the move was a “symbolic gesture to show we wouldn’t oppose the Communist Party.”⁴⁵⁵ Sing Tao Daily News, another Hong Kong-based publication, is owned by Charles Ho, a Hong Kong businessman who is also a member of the Chinese People’s Political Consultative Conference.⁴⁵⁶

This is not the only time that Hong Kong-based outlets have credulously covered scripted confessions. On August 1, the human rights lawyer Wang Yu gave a videotaped confessional interview to Oriental Daily News.⁴⁵⁷ In the interview, the paper fails to ask Wang why she would contact it for an interview before getting in touch with her friends or a lawyer, and also neglects to ask her about the conditions of her detention.⁴⁵⁸ Further, the narrator adds a claim that Wang denounced a fellow human rights lawyer as “unqualified,” though Wang does not appear to say this in the video.⁴⁵⁹ Similar interviews with Wang were published by mainland media site The Paper as well as Phoenix Television, two outlets that were given access to Lee for his February interview. After Wang’s Oriental Daily News interview, two journalists announced that they would no longer write for it. One, columnist Mo Zhixu, said that his decision came from his sense of dismay that the newspaper “coordinated with the party-state and served as a tool.”⁴⁶⁰

In interviews for which it is unclear whether the subject has been coerced, ethical journalistic practice would have the journalist provide context to the reader or viewer to indicate that the interview may not have been given freely. By contrast, the outlets that have released these confessional interviews have ignored questions about their veracity and argued that revealing how they got the interviews would breach journalistic ethics. When the American website Quartz asked the Oriental Daily News how it had obtained its interview with Wang, its representative replied, “Was it possible for the U.S. media who covered Watergate to reveal their sources?”⁴⁶¹

In another confessional interview widely believed to be coerced, the South China Morning Post interviewed Chinese rights advocate Zhao Wei in July 2016, after she had been in incommunicado detention for almost a year.⁴⁶² In this interview, Zhao claimed that she “regretted” her legal activism and “repented” her previous rights work.⁴⁶³ The story did note that it could not ascertain whether Zhao was under surveillance as she was interviewed, and it included quotes from her husband indicating that he believed Zhao was “not truly free.”⁴⁶⁴ But The Post repeatedly declined to explain how it was able to arrange an interview with Zhao, whose husband and lawyers have been unable to contact her.⁴⁶⁵

Although even coerced interviews with abductees and detainees have news value—such interviews may be among the few stories available to reporters working in unfree places—the credulous repetition of scripted confessions without providing context contravenes journalistic standards and is more propaganda than reportage. Media outlets that allow this cede their independence and become mere arms of the governments or other powers that coerce the statements. The evidence of this apparent co-opting of Hong Kong media to promote the Beijing government narrative extends beyond the relaying of the purported confessions. In June, for example, after Lam’s press conference, the Hong Kong television station TVB abruptly cancelled a live interview with him, a decision reported to have come from management.⁴⁶⁶

Scripted Confessions as a Tool to Block International Assistance

In scripted confessions, particularly from human rights advocates, the subject often implicates “foreign forces.” Human rights lawyer Wang, for example, blamed unspecified foreign agents for training her to “smear” the Chinese government. Zhao Wei, the legal assistant and activist, accused her former employer of receiving foreign funds in her confessional interview.⁴⁶⁷ The suspect may also be forced to express indifference to foreign support or expressions of concern. Wang rejected a European human rights award given to her in absentia, stating, “I am Chinese. I only accept the leadership of the Chinese government. I don’t accept the award now and won’t accept it in the future.”

The statements of Gui and Lee, the booksellers with foreign citizenship, included similar rejections of international assistance, seeming to expressly rebuff international efforts on their behalf. China took steps to highlight their ethnic Chinese identity and to undercut the salience and significance of their nationalities. In Lee’s February 29 interview on

Phoenix Television, he renounced his British “residence rights,” remarking that he had never lived in Britain and that while he had previously sought to do so, he was abandoning that effort and had so informed the British government.⁴⁶⁸ In attempting to downplay his British citizenship as mere “residency rights,” Lee stated that he had never “enjoyed the rights and privileges of a British citizen”⁴⁶⁹ and added that “many people have been making a big deal out of my residence rights and complicating the situation.”⁴⁷⁰ He made these arguments despite the fact that the British government had already confirmed Lee’s British citizenship status.⁴⁷¹

Gui similarly went out of his way in his appearance to ask that Swedish officials not become involved in his case, saying “Even though I am a Swedish national, I truly feel that I am still Chinese and my roots are still in China. So I hope that the Swedish side would respect my personal choice, rights, and privacy and let me solve my own problems.”⁴⁷² This claim is particularly difficult to credit given the reports that Gui had previously renounced his Chinese citizenship in favor of Swedish citizenship.⁴⁷³

These scripted confessions seem intended to reinforce China’s official portrayal of the abductions as an “internal affair.” Between February and June 2016, Foreign Ministry spokespersons repeatedly responded to international queries concerning the booksellers as relating to “China’s domestic affairs” or “internal affairs.”⁴⁷⁴ On January 5, 2016, after the U.K.’s then-foreign secretary Phillip Hammond first publicly discussed Lee’s abduction, Foreign Minister Wang Yi referred to Lee as “first and foremost a Chinese citizen.”⁴⁷⁵ Similarly, in repeated denials of Swedish and British requests for consular access to their citizens, China asserted its exclusive claim over the booksellers’ identities.

China has long held that Chinese citizens cannot hold dual citizenship.⁴⁷⁶ Although many Hong Kong residents of Chinese ethnicity hold some form of foreign nationality, the Chinese government treats such residents as Chinese nationals “with right of abode in foreign countries,”⁴⁷⁷ unless they affirmatively renounce their citizenship.⁴⁷⁸ Unless and until they do so, they are not entitled to consular protection from the country of foreign citizenship within Hong Kong or mainland China.⁴⁷⁹

Many Hong Kong residents hold some form of British nationality, but there are gradations in status. Some Hong Kong residents with British passports hold British Nationals (Overseas) (BN(O)) passports, which do not confer the right to live or work in the United Kingdom or recognition as an EU citizen.⁴⁸⁰ Lee himself has not clarified what type of British citizenship status he has. But his attempt to renounce his “residency rights,” something that BN(O)-holders do not possess, would indicate that he has greater citizenship rights than those of a BN(O) holder.⁴⁸¹ Moreover, statements from the European Union refer to Lee as a citizen of the EU.⁴⁸²

Gui’s consular rights are clearer. His daughter has publicly explained that Gui, a Swedish citizen, did previously renounce his Chinese citizenship.⁴⁸³ This is a fact that has gone unacknowledged by Chinese authorities directly, but Gui’s scripted language disclaiming his Swedish identity may be an indication that China acknowledges his foreign citizenship but does not feel bound by it.

The Chinese government at times appears to claim for itself the power to decide which ethnic Chinese are subject to its authority—regardless of citizenship or international law. Comparing the relatively swift release and deportation of Swedish NGO worker Dahlin with the continued detention of fellow national Gui for over a year indicates China’s readiness to treat Chinese ethnicity as trumping foreign nationality, especially in sensitive political cases.

The Lengthening Arm of China’s Security State

The Causeway Bay Books abductions are not the only publicly documented incidents of Chinese security agents acting extraterritorially. Indeed, Chinese authorities seem increasingly ready to claim “overseas affairs” as part of their ambit. In late 2014, for example, Vice Minister of Public Security Liu Jinguo said that China had conducted activities in 56 countries as part of Xi Jinping’s anticorruption campaign.⁴⁸⁴ These overseas activities have been part of Operation Fox Hunt, an anticorruption effort aimed at Chinese nationals who have fled abroad.⁴⁸⁵ Additionally, in early 2016 China’s Ministry of Public Security announced the establishment of an “overseas fugitive affairs” department to track down fugitives abroad.⁴⁸⁶ “A fugitive is like a kite,” Li Gongjin, team leader of Shanghai police’s economic crimes unit, told *Xinmin Weekly* late last year. “The body is overseas, but the thread is inside China. Through family and friends, [we] can always find them.”⁴⁸⁷

China’s approach to apprehending suspects who are outside its borders makes only limited use of extradition agreements, mutual legal assistance treaties, and other legal instruments of international law intended to govern such

interactions. Many countries do not have such treaties with Beijing due to the inadequacy of Chinese legal protections and the lack of credibility of its criminal justice system. China's Central Commission for Discipline Inspection (CCDI) explained to Time's Hannah Beech that in the absence of such agreements, "we have to use alternative measures, such as persuasion, repatriation and prosecution from another place, etc."⁴⁸⁸ Beech reports that 41 percent of 743 corruption suspects who had fled overseas and were brought back to China to face punishment were lured through "persuasion" tactics that the CCDI has chosen not to specify.⁴⁸⁹ She recounts cases in which the Chinese government made threats against suspects' family members residing in China and in which such family members were enlisted in campaigns to press fugitives to return home.

A September 2016 investigation by Canada's Globe and Mail revealed "the mix of incentives and threats China employs," with Chinese officials messaging the family of an alleged fugitive in the United States saying that the "life and career" of the fugitive's family would be ruined if she did not return.⁴⁹⁰ The Globe and Mail also reported that Chinese agents have entered Canada under false pretenses as far back as 2000.⁴⁹¹ China's overseas targets apparently include not just corruption suspects but also dissidents, journalists, family members of human rights advocates, and others.⁴⁹² In April 2015, it was revealed that Chinese agents had traveled to Australia in late 2014 to persuade Dong Feng, a naturalized Australian citizen, to return to China to face corruption charges.⁴⁹³ Although bribery was the charge, Dong is also a practitioner of Falun Gong, a religious group banned within China.⁴⁹⁴

China has shown its freest extraterritorial hand in Asia. In Myanmar, for example, Bao Zhuoxuan, the underage son of Chinese human rights lawyer Wang Yu, was seized from a guesthouse and forcibly repatriated to China, where he is now under house arrest.⁴⁹⁵ This occurred in October 2015, the same month as Gui's disappearance from neighboring Thailand. Bao was attempting to gain legal entry to the United States, fleeing through neighboring Myanmar because his passport had been confiscated by Chinese authorities.⁴⁹⁶ Although the men who seized him appeared to be Burmese police officers, the Burmese government denied playing any role in his detention.⁴⁹⁷

Chinese indifference toward legal norms in pursuing extraterritorial suspects raises serious issues under international law and important questions for governments weighing whether to cooperate with China in such instances. These cases demonstrate that Hong Kong is not the only place facing possible infringements on its own jurisdictional autonomy. While no country wishes to be a safe haven for true criminals, governments need to be vigilant in defending their sovereignty in the face of an increasingly cavalier Chinese approach toward international borders when it comes to apprehending those Beijing considers criminal by its own standards.⁴⁹⁸

China and Thailand: "Good Friends"

Perhaps the country on which China has exerted the most influence against the community of Chinese political exiles is Thailand, from which Gui disappeared in October 2015. One of China's southern neighbors, Thailand has been a particularly common destination for Chinese political exiles for decades.⁴⁹⁹ One estimate puts the number of such dissidents in the hundreds.⁵⁰⁰ Meanwhile, Thailand's military government, which took power in a coup in 2014, has emphasized improved relations with Beijing.⁵⁰¹ Bangkok sees Chinese trade deals as crucial to economic growth.⁵⁰²

Gui Minhai's abduction by Chinese agents is just one of several recent incidents involving the flexing of Chinese muscles in a pliant Thailand. Since taking power, Thailand's military junta has sent dozens of Chinese refugees claiming asylum back to China against their will, violating the international legal principle of *non-refoulement*; arrested Chinese political activists and transferred them to China; and detained a prominent Hong Kong activist, apparently at China's request.

In July 2015, the Thai government deported more than 100 asylum-seeking ethnic-Uyghur refugees, triggering sharp criticism from the U.N., which labeled it a "flagrant violation of international law."⁵⁰³ In November 2015, Thai authorities arrested Dong Guangping, a Chinese political activist, and Jiang Yefei, a political cartoonist, extraditing them both to China, where they were arrested. This extradition occurred even though both men were U.N.-recognized refugees who had already been accepted for refugee resettlement, which was supposed to occur only two days later. In March 2016, Gu Qiao, another U.N.-recognized refugee in Thailand, was detained at the Bangkok detention center along with her one-year-old son because their visa had expired. Her husband, Li Xiaolong, a former political campaigner in China and political refugee, has been charged by Thai authorities with human trafficking after attempting to escape to Australia from Thailand with other asylum seekers.⁵⁰⁴

In January of 2016, journalist Li Xin, who lived in Thailand and was in the process of seeking asylum, disappeared. Speaking to his wife by phone in early February, Li claimed he had gone back to China voluntarily to assist with an

investigation and refused to disclose his location. He asked his wife not to contact any outsiders. In an interview, his wife explained, “I know that’s the pattern, and Li completely spoke contrary to his own will.”⁵⁰⁵

And in July 2016, 19-year-old Xu Zhenxin, a Chinese political asylum seeker, was detained in Thailand for having an expired passport. The next month, Xu returned to China. While he told friends that he was returning to China voluntarily, a fellow refugee told Radio Free Asia in late August that he “wasn’t himself” in those conversations and that his friends have not heard from him since.⁵⁰⁶

The disappearance of Li and Gui from Thailand indicate that Chinese security agents can operate with impunity there. The return of the Uyghur refugees and the detention and forced return of other political activists to China further indicates that Thailand is willing to assist China in policing and silencing its dissident voices. Further, there is a pattern of targeting Chinese exiles seeking to exercise their free expression rights as booksellers, journalists, cartoonists, and activists. Joshua Wong, from Hong Kong, was refused entry to Thailand precisely to prevent him from speaking at a commemorative event. The Chinese government’s expanding efforts to control all narratives about its policies increasing extends beyond its own borders.

Hong Kong Cross-Border Law Enforcement and Rendition

Negotiations between Hong Kong and mainland authorities on the rendition of criminal suspects date to April 1996, but as of this report there is no agreement.⁵⁰⁷ Article 95 of Hong Kong’s Basic Law provided that Hong Kong’s government may, “through consultations and in accordance with law,” render assistance to mainland Chinese authorities, but this article does not provide mainland agencies with any legal rights. Additionally, there exists an administrative arrangement under which Hong Kong residents may be returned from the mainland to Hong Kong for investigation or trial.⁵⁰⁸ But, given the absence of a formal agreement, there is no legal basis for the rendition of suspects from Hong Kong to the mainland.⁵⁰⁹ Nor is there any basis for mainland law enforcement or state security agents to operate on Hong Kong soil.

Hong Kong and mainland authorities have also had an administrative arrangement for reciprocal notification of detentions in place since 2001.⁵¹⁰ It has been an “unwritten rule” under this arrangement that Hong Kong authorities should be notified by their counterparts of a Hong Kong resident’s detention within 14 days.⁵¹¹

Despite the absence of any legal basis for renditions from Hong Kong to the mainland, there is evidence that at least one has occurred prior to the disappearances of the Causeway Bay booksellers. In 2008 Zhou Yongjun, who had been a student leader in the Tiananmen Square protests in 1989, allegedly attempted to enter Hong Kong from Macau on a false Malaysian passport bearing the name Wang Xingxiang. He was detained by Hong Kong police for inquiries relating to a bank fraud perpetrated by a person of that name but was released due to insufficient evidence. The Hong Kong Immigration Department subsequently sent Zhou to Shenzhen, China, purportedly on the basis that the Shenzhen authorities wished to speak to him.⁵¹²

More alarmingly, there is evidence that mainland police and state security agents have operated illegally in Hong Kong long before the booksellers disappeared. In a particularly notorious 2004 instance known as the Mount Davis Road incident, Hong Kong police apprehended seven individuals from the mainland following a report of suspicious activity on a road in Western Hong Kong Island.⁵¹³ Two of them claimed to be Guangdong Public Security officers monitoring a suspect, and one of the two was found to be carrying handcuffs.⁵¹⁴ Mainland officials later told the Hong Kong Security Bureau that the Public Security officers “were on a sightseeing trip with five staff of a rental car company,” an explanation that drew considerable derision.⁵¹⁵

Further, it appears that the Mount Davis Road incident was not an isolated event.⁵¹⁶ In an op-ed for *The Initium*, journalist Ching Cheong cited a total of six instances (four of them, including the Mount Davis Road incident, occurring in Hong Kong) in which Mainland authorities acted illegally overseas prior to the disappearances of Gui and Lee.⁵¹⁷ Two involved illegal renditions of individuals from Hong Kong to the mainland;⁵¹⁸ a third involved a suspect being taken from the mainland to his apartment in Hong Kong to retrieve evidence.⁵¹⁹

Ching argued that, because the previous targets were from the mainland, these operations “did not attract the attention of Hong Kong residents.”⁵²⁰ Legislator James To noted that in previous cases, “people may think that those are corrupted officials using Hong Kong as a shelter, but they are one of [the CCP’s] own people.” In contrast, Lee and his colleagues were “just literary people” seemingly targeted for “the normal operations of a bookstore.”⁵²¹

A review of these incidents reveals that Hong Kong's juridical autonomy from mainland China is more fragile than is commonly believed. The abduction of Lee Bo has served as the most recent and powerful indication of how mainland Chinese authorities feel empowered to act outside Hong Kong law.

HUMAN RIGHTS IN RETREAT

Violations of International Law

China's abductions of the Causeway Bay booksellers demonstrate a blatant disregard for established principles of international law and human rights. Many of these principles have been incorporated directly into Hong Kong's local laws, and thus their violation represents a direct challenge to Hong Kong's legal autonomy as outlined in the "one country, two systems" framework.

Lam Wing-kee has described the circumstances of his abduction and detention: He was initially denied knowledge of the reason for his arrest, was forced to sign away his right to contact his family or hire a lawyer, and was kept in a 200- to 300-square-foot space for months of detention.⁵²² Lam was kept in a state of incommunicado detention and constant surveillance that persisted until his release.⁵²³ Further, his confession was compelled and scripted.⁵²⁴ Given that his colleagues are not able to speak freely, it is reasonable to presume that the other booksellers were subject to similar treatment.

While a comprehensive legal assessment must wait until a thorough independent investigation is conducted into the facts of the booksellers' abductions, detentions, and apparently coerced confessions, the evidence compiled for this report demonstrates that Chinese authorities committed a wide range of human rights abuses, including against the rights to freedom of expression, freedom of the press, liberty and security of the person, due process of law, freedom from torture and ill-treatment, and freedom from enforced disappearance. These human rights are guaranteed in a number of international treaties applicable to China and Hong Kong, notably the International Covenant on Civil and Political Rights, the Convention Against Enforced Disappearances, and the Convention against Torture.

International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) has applied to Hong Kong since 1976, when the United Kingdom ratified it on behalf of the crown colony.⁵²⁵ Although China itself has not ratified the ICCPR,⁵²⁶ both the Joint Declaration and Basic Law provide for its continued application to Hong Kong after 1997.⁵²⁷ The provisions of the ICCPR are also expressly incorporated into Hong Kong law by the Bill of Rights Ordinance (BORO). As a result, Hong Kong citizens are meant to enjoy legal guarantees and protections for fundamental human rights such as freedom of expression (ICCPR Article 19, BORO Article 16), freedom from arbitrary arrest and detention (ICCPR Article 9, BORO Article 5), and freedom from torture or ill treatment (ICCPR Article 7, BORO Article 7). Thailand, where Gui was abducted, is also obligated to uphold the ICCPR, having acceded to it on October 29, 1996.⁵²⁸

International jurisprudence emphasizes that states cannot lawfully arrest or detain a person for exercising the right to free expression. The Human Rights Committee, a body of experts that monitors compliance with the ICCPR, has declared that "[a]rrest or detention as punishment for the legitimate exercise of the rights as guaranteed by the Covenant is arbitrary, including freedom of opinion and expression."⁵²⁹ The committee also warns states not to retaliate against a person for exercising freedom of expression, "including such forms of attack as arbitrary arrest, torture, threats to life and killing."⁵³⁰

International Law on Enforced Disappearances

The United Nations General Assembly passed the Declaration on the Protection of all Persons From Enforced Disappearance ("the Enforced Disappearance Declaration") in December 1992. An enforced disappearance occurs when a state deprives a person of liberty through abduction or arbitrary detention, followed by a refusal to disclose that person's fate or whereabouts. No circumstances, including internal political instability or superior orders, may justify enforced disappearances.⁵³¹ Enforced disappearances are considered particularly egregious for "plac[ing] such persons outside the protection of the law"⁵³² and for often leading to a host of other violations, including torture and extrajudicial killings.⁵³³ The Human Rights Committee has emphasized that enforced disappearances "constitute a particularly aggravated form of arbitrary detention"⁵³⁴ and that states have duties to protect people from being abducted or detained by third parties.⁵³⁵ States in which such acts occur must ensure that they are "promptly, thoroughly and impartially investigated" by a competent and independent state authority.⁵³⁶ Article 7 of the Rome Statute of the International Criminal Court refers

to enforced disappearance, when committed as part of a widespread or systematic attack against any civilian population, as a crime against humanity.⁵³⁷

The Enforced Disappearance Declaration ultimately led to the adoption in 2006 of the International Convention for the Protection of All Persons From Enforced Disappearance (“the Enforced Disappearance Convention”). While neither China nor Thailand has ratified the Enforced Disappearance Convention or the Rome Statute, widespread state practice, academic opinion, and human rights jurisprudence suggest that the obligation to prevent, investigate, and punish enforced disappearances has attained the status of jus cogens.⁵³⁸ Jus cogens norms, also referred to as peremptory norms, are binding on all states without exception and override all other norms of international law.⁵³⁹

The Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment

The United Nations Convention Against Torture (CAT) has been ratified by both China and Thailand and also applies to Hong Kong.⁵⁴⁰ The CAT defines torture as “any act by which severe pain or suffering, whether physical or mental,” is intentionally inflicted for purposes such as interrogation, punishment, intimidation, or discrimination, when such pain or suffering is inflicted by or with the consent of a public official or other state agent.⁵⁴¹ The CAT also establishes that “[n]o State Party shall expel, return (“*refouler*”) or extradite a person to another state where there are substantial grounds for believing that he would be in danger of being subjected to torture.”⁵⁴²

The Committee Against Torture, the body of human rights experts that monitors the implementation of the CAT, recently noted that Hong Kong is “under an obligation to prevent transferred offenders or sentenced persons from being exposed to the risk of torture or ill-treatment while in detention or in prison upon return to Mainland China or upon transfer via Macao, China.”⁵⁴³

Chinese Violations With Respect to the Causeway Bay Books Case

The abductions of the Causeway Bay booksellers involve numerous breaches of international law. First and foremost, China’s use of enforced disappearances, in the mainland as well as in Hong Kong and Thailand, violates its jus cogens obligations to prevent, investigate, and punish enforced disappearances. The abductions have also resulted in violations of other fundamental rights of the booksellers, including the right to recognition as a person before the law, the right to liberty and security of the person, and the right to due process.

Moreover, the lengthy periods of incommunicado detention and repeated public “confessions” strongly suggest that Chinese agents applied psychological and physical coercion to the booksellers that may have amounted to torture and ill treatment under the CAT. In his public statements, Lam has confirmed that he was subjected to ill treatment during detention. Blanket denials of mistreatment made by the other booksellers are not necessarily credible in light of the direct pressure against them and the possible threats of retaliation against their family members living in the mainland.

Enforced disappearances also violate the rights of relatives of the disappeared person, including the right to family life, the right to the truth, and the right not to be subjected to cruel, inhuman, or degrading treatment or punishment.⁵⁴⁴

The circumstances under which the Causeway Bay booksellers were forcibly disappeared, as well as Lam’s public statements, lead to the conclusion that Chinese authorities engaged in retaliation and intimidation against the men for exercising their legally protected rights to freedom of speech and freedom of the press. As such, the enforced disappearances constitute a particularly serious infringement of the Joint Declaration, the Basic Law, and the principle of “one country, two systems.”

In addition, China’s refusal to grant Sweden the established right of consular access and assistance to its citizen Gui Minhai violates Article 36(1)(c) of the Vienna Convention on Consular Relations, which provides:

Consular officers shall have the right to visit a national of the sending State who is in prison, custody or detention, to converse and correspond with him and to arrange for his legal representation.⁵⁴⁵

The apparent complicity of Thailand in Gui’s abduction also implicates the current military government in violations of the ICCPR’s guarantees of due process and protection of law. The failure to conduct an effective and prompt investigation is a breach of Thailand’s obligations under the jus cogens principles to prevent, investigate, and punish enforced disappearances, and may violate the obligation to prevent torture and ill treatment.

Finally, it is important to emphasize that the abduction of Lee by Chinese state security agents not only violates numerous human rights standards as incorporated in Hong Kong's domestic law but is also a grave breach of the prohibition in Article 22 of the Basic Law against mainland governmental entities operating on Hong Kong soil.

UPHOLDING FREE EXPRESSION IN HONG KONG

Conclusions and Recommendations

The Plain Facts

Despite the lack of acknowledgement by the Chinese government and the apparent unwillingness of the Hong Kong SAR government to reach such a conclusion, it is apparent that authorities from within mainland China are responsible for the disappearances of the five Causeway Bay booksellers. This means that all five of these disappearances were, in fact, abductions and detentions without legal process, and that two of the cases were extraterritorial kidnappings of foreign nationals. That all of these abductions were aimed at Hong Kong residents—including Lee, who was abducted while in Hong Kong—constitutes a startling blow against the rights of free expression in Hong Kong as guaranteed under both Hong Kong constitutional law and international law.

The abductions are only one element of the abuses perpetrated against the five booksellers. All five men were detained for months in incommunicado detention, their families left without any certainty as to where they were or what was happening to them. All five emerged to give nationally televised confessions that numerous observers have concluded—and that Lam has himself explicitly stated—were staged under coercive conditions. Contrary to international protocols, Chinese authorities only grudgingly granted consular access to Gui, a citizen of Sweden, and granted no such access to Lee, a British citizen. At the time of this report, Gui is still in incommunicado detention, and all five booksellers remain under a cloud of legal charges brought against them by the Chinese state.

But as notable as what has happened is what has not happened. Mainland Chinese authorities have provided no credible explanation for how five disappeared booksellers—including two who would apparently have had to pass through customs and immigration at the Hong Kong-mainland border or the border between China and a third country without any record of their passage—ended up in their custody. They have similarly provided no details of Gui's current whereabouts, no recognition of culpability for these violations of Hong Kong and international law, and no avowals that such violations will not be repeated. As a result, there is no formal indication that abductions of Hong Kong citizens will not occur again in the future.

Although there has been significant outcry against the cases worldwide, the impact of international diplomatic pressure to date appears marginal. There are increasing calls for stronger action from Sweden, the United Kingdom, and other international actors, in particular to secure Gui's release. Chinese and Hong Kong authorities have not been entirely impervious to international pressure, and forceful and sustained advocacy is still required not only to resolve the cases of the five booksellers but also to safeguard freedom of expression in Hong Kong.

The Broader Implications

The kidnappings of the Causeway Bay booksellers point to significant related developments: the Chinese government's continued pressure on civil liberties in Hong Kong and its projection of power and influence abroad.

The threats to the civil and political rights of Hong Kong residents after 1997 are abundantly documented. In particular, PEN America and others have warned of the diminishing space for freedom of expression and of the press, especially since the Umbrella Movement protests of 2014. But the abduction of Hong Kong residents—one of them from Hong Kong soil—in apparent retaliation for their acts of expression and commerce conducted within Hong Kong raises these threats to a disturbing new level.

These abductions have already significantly chilled the Hong Kong publishing landscape, heightening the levels of uncertainty and fear that lead to self-censorship by writers and an unwillingness to take risks on the part of publishers and booksellers. Although critics may dismiss the books produced by Mighty Current Media as tabloid-style political gossip, it is apparent from those interviewed by PEN America that the repercussions can also result in books of serious public interest or literary merit never being published or distributed to Hong Kong audiences.

Within Hong Kong, there are still publishers willing to issue work on sensitive topics, authors and journalists willing to tell critical stories, independent booksellers willing to sell political books, and readers willing to buy them. To do so, however,

they must brave an environment restricted not only by economic pressures but also by an increasing sense of personal threat.

The Causeway Bay Books case also indicates China's determination to unilaterally define issues of narrative and even identity, in the expectation that it will not be challenged. This effort is evident in Beijing's effort to co-opt Hong Kong media by using these platforms to broadcast apparently coerced confessions in the guise of granting of exclusive interviews. These broadcast performances were intended to give credence to Beijing's narrative that the booksellers had not been abducted and, in the cases of Lee and Gui, to disclaim their foreign citizenship. This element, in turn, worked in conjunction with Beijing's official statements to indicate that China intends to decide for itself who is a citizen of another country and who is not. An ineffective response from the international community will only confirm to Beijing that this tactic is an acceptable one.

Furthermore, the disappearances of the Causeway Bay booksellers reflect Chinese efforts to extend influence abroad, frequently in contempt of fundamental norms of international law. If Lee's abduction demonstrated that critics of China's government were not free from the prospect of extrajudicial rendition while in Hong Kong, the Gui's abduction shows that such critics may not be protected even in third countries.

PEN America is committed to safeguarding free expression and the freedom to write. The abductions of the five booksellers is a clear effort to silence critical voices and deter those who would offer a narrative contrary to the official version of the central Chinese government. The implications go well beyond the suffering of the booksellers, their families, and their colleagues to the broader use of repressive tactics by a government at home and abroad. Within Hong Kong, there are indications that the incident may have galvanized a response rejecting closer relations with Beijing, as evidenced by the seats gained by "localist" candidates in the September 2016 Legislative Council elections. Attempts by Hong Kong citizens to reinforce the rights and protections laid out by the "one country, two systems" framework, or to push harder for more autonomy, deserve active support from vigilant governments, multilateral organizations, and international human rights defenders.

Recommendations

To the government of Hong Kong SAR

- Launch a full, effective, transparent, and impartial investigation into the disappearance of bookseller Lee Bo, including to determine whether Chinese state security agents operated in contravention of Hong Kong law. Such an investigation should provide periodic public updates, culminate in a public report, and identify avenues for redress upon identification of any violations of Hong Kong law, as well as recommendations to Hong Kong government agencies.
- Secure specific, formal, and public assurances from the Chinese central government that such incidents will not recur.
- Continue to engage with the Beijing government to ensure that all Causeway Bay booksellers have genuine security, freedom of movement, and freedom of speech and that they are not subject to continuing coercion from mainland security agents.

To the government of the People's Republic of China

- Launch a full, effective, transparent, and impartial investigation into the disappearances of the Causeway Bay booksellers, including to determine whether Chinese state security agents operated in contravention of Hong Kong law, Thai law, or international law. Such an investigation should provide periodic public updates, culminate in a public report, and identify avenues for redress upon identification of any violations of Hong Kong, Thai, or international law.
- Provide formal, public, and specific assurances, from high-level authorities authorized to make such assurances, that such incidents will not recur.
- Publicly reaffirm the government's respect for—and adherence to—Hong Kong's legal system and the "one country, two systems" framework.
- Publicly withdraw all remaining legal charges and restrictions against the five Causeway Bay booksellers

- Identify the location of Gui Minhai, withdraw all remaining legal charges and restrictions against him, and release him from custody.

To the government of the United Kingdom

- Unequivocally and publicly condemn all breaches of the Joint Declaration, especially in the field of human rights and free expression.
- Continue to publicly call for a full and public explanation of the circumstances regarding the disappearance, detention, and apparent coerced confession of British citizen Lee, as well as a full explanation of any current restrictions of his freedom of speech and freedom of movement.

To the government of Sweden

- Strongly consider more public avenues of diplomacy and engagement in order to obtain the release from incommunicado detention of Swedish citizen Gui. This response may include additional and more forceful public expressions of concern from Sweden's highest officials, open discussion of Gui's case by the Riksdag or by other government bodies—with such discussion culminating in official conclusions and recommendations for further government engagement—and consideration of political ramifications in light of China's continued denial of consular access.
- Commit to additional public statements denouncing the continued lack of consular access to Gui.
- Continue to publicly call for a full and public explanation of the circumstances regarding the disappearance, continuing detention, and apparent coerced confession of Gui.

To the authorities of the European Union

- Commit to additional high-level engagement on the Causeway Bay Books incident and its continuing effects on British citizen Lee, Swedish citizen Gui, and their colleagues. Commit to additional public statements on the incident, including regarding consular access.

To the Royal Thai government

- Launch a full, effective, transparent, and impartial investigation into whether any agents of the Royal Thai government were complicit in the abduction of Gui from Thailand.
- Publicly guarantee that the Royal Thai government will not cooperate with, be complicit in, or endorse any operations of Chinese security agents within the Kingdom of Thailand that are not in strict accordance with Royal Thai and international law.
- Make public commitments to uphold international law, including the principle of non-*refoulement*, the provisions of the ICCPR, and the provisions of the CAT, upon receipt of any request by the People's Republic of China—whether formal or informal—to extradite or return a person to their jurisdiction.

To media outlets operating in Hong Kong and the People's Republic of China

- Ensure editorial and journalistic impartiality in reporting on stories of political import, human rights, and free expression, and of Hong Kong-mainland relations.
- In reporting on interviews in which the outlet has reasonable cause to suspect an interviewee is not able to speak freely, prominently include this belief—as well as the information and context supporting such a belief—within the reporting itself.
- In interviews in which an interviewee may not be able to speak freely or is otherwise under coercion, provide to the public all relevant information on how the outlet was able to obtain such an interview and under what circumstances or conditions, to the fullest extent consistent with a reporter's privilege to protect one's sources.

To the UN Human Rights Committee

- During the Hong Kong government's (as Hong Kong, China) periodic review of its compliance with the ICCPR, ensure during the dialogue with Hong Kong, China, that the Hong Kong government be held to account for its failure to guarantee the rights of its citizens.
- During the Chinese government's periodic review of its compliance with the ICCPR, ensure during the dialogue with China that the Chinese government be held to account for its multiple infringements of the ICCPR relating to the abductions.

To the Committee Against Torture

- During the Hong Kong government's (as Hong Kong, China) periodic review of its compliance with the CAT, ensure during the dialogue with Hong Kong, China, that the Hong Kong government be held to account for its failure to guarantee the rights of its citizens.
- During the Chinese government's periodic review of its compliance with the CAT, ensure during the dialogue with China that the Chinese government be held to account for its multiple infringements of the CAT relating to the abductions.

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The Committee urges Hong Kong, China to ensure that any agreement on the surrender of offenders or transfer of sentenced persons from Hong Kong, China to Mainland China or via Macao, China is in line with the obligations of the Convention and contains sufficient legal safeguards, appropriate judicial oversight mechanisms and effective post-return monitoring arrangements to protect fugitive offenders against torture or ill-treatment upon return or upon indirect transfer. Hong Kong, China should not transfer a fugitive to Mainland China where there are substantial grounds to believe that he or she would be in danger of being subjected to torture or ill-treatment upon return or upon indirect transfer via Macao, China.
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