

“The Status of Democracy and Human Rights in Hong Kong, Five Years After the PRC’s
Judicial Takeover”

Senate Foreign Relations Committee

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Testimony of Sophie Richardson, PhD, Co-Executive Director, Chinese Human Rights
Defenders

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Human rights in Hong Kong under Beijing’s “National Security Law”

Chinese Human Rights Defenders (CHRD) has documented deepening repression under Chinese President Xi Jinping since he assumed power in late 2012, including significantly curtailing the human rights of seven million Hong Kong people. Although Beijing’s tactics there include an attempt to gut Hong Kong’s legal protections for human rights, it is critical to recall that the International Covenant on Civil and Political Rights (ICCPR) still applies in Hong Kong, and that Beijing also itself has broad obligations under a number of international human rights treaties.

Before the June 30, 2020 imposition by Beijing of a draconian National Security Law (NSL), Hong Kong’s relatively democratic politics, independent legal system, and free press helped make it home to an extraordinarily vibrant community of activists and civil society groups. But the contrast between pre- and post-NSL Hong Kong is especially stark: organizations have disbanded in order to avoid prosecution, some activists have sought exile in democracies, and many pro-democracy activists are serving harsh sentences on baseless charges. Those people include [Chow Hang-tung](#), who has been prosecuted for her efforts to commemorate the 1989 Tiananmen Massacre, in legal proceedings that fall woefully short of fair trial rights. Others wrongfully imprisoned include people who have testified before previous United States Congresses, including [Joshua Wong](#) and [Lee Cheuk-Yan](#). Journalist [Gwyneth Ho](#), former Legislative Council member [Albert Ho](#), nurse [Winnie Yu](#), and media leader [Jimmy Lai](#) have all been targeted for having done nothing more than try to defend their—and all Hong Kong people’s—human rights.

According to research by CHRD, Chinese authorities [arbitrarily detained](#) thousands and convicted 1,545 prisoners of conscience for peacefully exercising or advocating for human rights

between 2019 and 2024; 123 of them in Hong Kong. Over those five years, more individuals in Hong Kong were convicted of “subversion” and “inciting subversion” than in mainland China according to available data, and the average prison sentence in Hong Kong under the 2020 National Security Law is 5.15 years.

In addition, CHRD has documented numerous cases of Hong Kong authorities targeting human rights defenders for [collective punishment](#)—the harassment by police or administrative actions taken against persons in a group or a family in retaliation for an act committed by individuals. There is no legal basis or justification for this in Chinese, Hong Kong, or international law. These cases are an affront not only to Hong Kong’s obligations under the ICCPR, but also an affront to the laws of the democracies in which many activists now live.

Officials in Beijing and Hong Kong have faced few consequences for robbing Hong Kong people of their human rights. No Hong Kong police—once considered “Asia’s finest”—have been prosecuted for credible allegations of violence against peaceful protesters. A handful of officials have been sanctioned for their involvement in human rights violations, but officials and corporate interests from Hong Kong and their counterparts from democracies have, for the most part, carried on—literally and figuratively—with business as usual.

US Policy

Following the 1997 handover of Hong Kong sovereignty from the United Kingdom to the People’s Republic of China—a development in which Hong Kong people’s right to political participation was disregarded—United States policy tried to support the principle of “one country, two systems,” treating Hong Kong as a distinct entity. That approach is reflected in the 1992 US-Hong Kong Policy Act.

But revising that perception, and the policies that flowed from it, did not keep pace with Beijing’s—and especially Xi Jinping’s and his Hong Kong appointees’—clear threats to human rights in Hong Kong. Then and now, too many officials from democracies found it convenient to express hope that Beijing would uphold its obligations under the Sino-British Joint Declaration, rather than grapple with the reality that Xi had no intention of doing so. As has been the case with respect to human rights in the mainland, successive US administrations have continued to believe that pressuring Beijing to curtail its repression would incur costs to other interests in the relationship, and so opted for a mixture of strong rhetoric, symbolic gestures, and weak penalties, even as human rights violations worsened.

The options made possible by the 2019 Hong Kong Human Rights and Democracy Act helped in two ways: by making clearer to Beijing that threats to Hong Kong’s autonomy could produce adverse consequences, and by paving the way towards the invocation of sanctions. And since the imposition of the NSL, the US’s response has involved stripping Hong Kong of its special

trade status, sanctioning some officials and entities, and issuing business advisories. It has tentatively offered modestly greater protections to people from Hong Kong.

But these are minor irritants to Beijing, ones it has largely built into its business model, and it continues to expect impunity for its human rights violations in Hong Kong, across the mainland, and beyond China's borders. If the US wants to bring sufficient pressure to bear on Beijing and Hong Kong that might prompt positive changes—such as securing human rights defenders' releases or a commitment to repealing ICCPR-violating laws—it needs to try new approaches.

Recommendations

The challenge for US policy is to bring to bear pressure on Beijing and Hong Kong that might prompt positive change.

CHRD has recommended elsewhere the potentially transformative importance of investigating and prosecuting Chinese government officials for alleged crimes against humanity and genocide targeting Uyghurs. Making the prospect of facing justice a tangible reality for Chinese government officials could make them reconsider committing widespread, systematic abuses. Along these lines, an appropriate initiative with respect to Hong Kong could include an effort that would collect evidence of HK government officials' complicity in serious human rights violations; many civil society groups have assembled information that could contribute to such an endeavor.

CHRD encourages not only sanctioning officials implicated in human rights abuses in Hong Kong, we also suggest explicitly conditioning symbolic interactions with senior leaders from Beijing and Hong Kong on the release of wrongfully detained human rights defenders, with a particular urgency for those who are reportedly unwell in detention. A failure to do so normalizes their complicity in human rights violations. Recall that we recently observed the eighth anniversary of the death in state custody of 2010 Nobel Peace laureate Liu Xiaobo, whom Beijing imprisoned for his pro-democracy calls. In parallel, democracies should prioritize eliciting the views of Hong Kong human rights and democracy activists in policy formulation.

CHRD also urges reinstating support for Radio Free Asia and Voice of America, critical sources of independent information on Hong Kong, and urges rejecting the Office of Management and Budget's recommendation to eliminate China-focused funding for democracy and human rights work. To erase this work empowers Xi Jinping, disadvantages the US, and demoralizes—and puts at risk—many people from and across Hong Kong and China who courageously work for human rights and democracy.

Finally, Congress could consider requiring US companies to conduct human rights due diligence to ensure that their activities do not create or worsen human rights violations; such assessments are already strongly recommended by the United Nation's 2011 Guiding Principles on Business

and Human Rights. Perhaps because the operating environment in other parts of China has become considerably more difficult, US firms continue to enjoy the relative ease of Hong Kong, where they often enjoy access to the highest levels of government. For example, in November 2023, executives from BlackRock, Goldman Sachs, and Morgan Stanley, among others, joined senior Hong Kong officials at a summit entitled “Living with Complexity.” We see little evidence that those businesses used that opportunity—or any similar opportunities—to call for the releases of people whose work promoting free speech and the rule of law underpins the ability to generate profits. It is difficult to imagine significant change in Beijing and Hong Kong officials’ thinking as long as these dynamics remain unchanged.

In May 2017, just a few months before Liu Xiaobo’s death, two of Hong Kong’s pro-democracy icons—veteran barrister and legislator Martin Lee, and protest organizer Joshua Wong—testified before the Congressional-Executive Commission on China, which at the time was chaired by then-Senator Rubio. Senator Rubio stressed the importance of autonomy, free speech, and political participation in Hong Kong, noting “Our hope is to continue to highlight human rights as a key pillar of our national security and foreign policy.” Lee and Wong both spoke of their utter determination to work for human rights and democracy in Hong Kong, as a matter of security and of values.

The US should honor these aspirations, and so many peoples’ extraordinary work and sacrifices, and challenge Beijing at every opportunity to uphold its obligations under international human rights law.