Written Testimony
"Hong Kong: Examining the Impact of the 'Umbrella Movement'"

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There has been a wide range of views in Hong Kong about the value of democratic elections.

So far, the Chinese government has consistently chosen to engineer the Hong Kong electoral system so that no individual it mistrusts could be elected chief executive (CE) and no political coalition that it fears could win control of the Legislative Council (or LegCo). To elect the chief executive, it created an election committee composed mainly of people it trusts. For LegCo, it established functional constituencies that give special representation to establishment economic and social groups. These functional constituencies together pick half the members of LegCo. As a result, Hong Kong's economic elite has dominated those institutions.

Major economic interests in Hong Kong have been happy with the current set-up because it provides them with privileged access to decision-making and the ability to block initiatives proposed by the democratic camp. Within this establishment, there is long-standing belief that majority rule would create irresistible demands for a welfare state, which would raise taxes on corporations and wealthy individuals and so sap Hong Kong's competitiveness.

The public, on the other hand, supports democratization. In the most representative election races (for some LegCo seats), candidates of the pro-democracy parties together get 55 to 60 percent of the vote. Those parties have tried for over twenty years to make the electoral system more representative and to eliminate the ability of Beijing and the establishment to control political outcomes. But there are divisions within the pan-democratic camp between moderate and radical factions, based on the degree of mistrust of Beijing's intentions.

There is a working class party and a labor confederation that supports Beijing and is supported by it. On electoral reform, it has followed China's lead.

Of course, any electoral system requires the protection of political rights. The Joint Declaration and the Hong Kong Basic Law protected those rights on paper, and the judiciary generally has upheld them. But there are serious concerns in Hong Kong that political rights are now being whittled away.

The August 31st decision of the PRC National People's Congress-Standing Committee on the 2017 Chief Executive election confirmed the fears of Hong Kong's pan-democratic

camp that Beijing does not intend to create a genuinely democratic electoral system. That decision almost guaranteed there would be with some kind of public protest.

Before August 31st, there had been some hope in Hong Kong that China's leaders would set flexible parameters for the 2017 election of the chief executive, flexible enough to allow an election in which candidates that represented the range of local opinions could compete on a level playing field. Instead, the rules the Standing Committee of the National People's Congress laid down were interpreted as ensuring that Beijing and the local Hong Kong establishment, by controlling the nominating committee, could screen out candidates that they saw as a threat to their interests.

I happen to believe that before August 31st there was available a compromise on the nomination process. The approach I have in mind would have liberalized the composition of the nominating committee so that it was more representative of Hong Kong society and set a reasonable threshold for placing someone in nomination. This would have been consistent with the Basic Law (a Chinese requirement) and likely ensured that a pan-Democratic politician could have been nominated (the democrats' minimum hope). Hong Kong voters would have had a genuine choice. There were Hong Kong proposals along these lines. Such an approach would have had a chance of gaining the support of moderate Democrats in Legislative Council, enough for reaching the two-thirds majority required for passage of the election plan.

Reaching such a compromise was difficult because of the deep-seated mistrust between the Hong Kong democratic camp and Beijing, and within the democratic camp. If there was to be movement towards a deal Beijing would have had to signal that it was serious about such a compromise, in order to engage moderate democrats. It chose not to, and an opportunity was lost.

Why Beijing spurned a compromise is unclear.

Perhaps it interpreted its "universal suffrage" pledge narrowly, to mean one-person-one-vote, and not a competitive election. Perhaps it wished to defer a truly competitive contest until it was sure that one-person-one-vote elections would not hurt its interests. Perhaps Beijing was overly frightened about the proposed civil disobedience campaign called "Occupy Central." Perhaps it judged that radical democrats would block their moderate comrades from agreeing to a compromise. Perhaps China actually believed its own propaganda that "foreign forces" were behind the protests. Perhaps it never had any intention of allowing truly representative government and majority rule. But if Beijing believed that taking a hard line would ensure stability, it was badly mistaken.

Whatever the case, the majority in Hong Kong saw the August 31st decision as a bait-and-switch way for Beijing to continue to control the outcome of the CE election and as a denial of the long-standing desire for genuine democracy. A coalition of student leaders, Occupy Central supporters, democratic politicians, radical activists, and middle class people resorted to the only political outlet they had: public protest. If the Chinese government had wished to empower Hong Kong radicals, it couldn't have hit upon a better way.

Although Beijing's August 31st decision guaranteed a public response in Hong Kong, the form it took was unexpected. Student groups preempted the original Occupy Central plan, and the takeover of three separate downtown areas resulted, not from a plan but from the flow of events. The Hong Kong Police did overreact in some instances, but each time it sought to reestablish control, there was a surge of public support for the core protester groups, mobilized by social and other media.

The protests were fueled by more than a desire for democracy.

Also at work were factors common in other advanced societies. Hong Kong's level of income and wealth inequality is one of the highest in the world. Young people tend to believe that they will not be able to achieve a standard of living similar to that of their parents. Real wages have been flat for more than a decade. Buying a home is out of reach for young people, in part because a small group of real estate companies control the housing supply. Smart and ambitious individuals from China compete for good jobs.

Hong Kong students have gotten the most attention in the current protests. Just as important however, are older cohorts who are pessimistic about their life chances. They believe that the Hong Kong elite, which controls both economic and political power, is to blame for these problems. They regard genuine democracy as the only remedy.

The Hong Kong government's response has been mixed but restrained on the whole.

The Hong Kong police did commit excesses in their attempt to control the crowds. Teargas was used once early on, and pepper spray on a number of occasions since then. There was one particular incident where police officers beat a protester excessively (for which seven of the officers involved were arrested last week).

It is worth noting that the scenario for which the police prepared was not the one that occurred. What was expected was a civil disobedience action in a relatively restricted area with a moderate number of protesters who, following their leaders' plan, would allow themselves to be arrested. What happened in late September was very different. There were three venues instead of one. Many more protesters took part, and they had no interest in quickly offering themselves for arrest. Instead, they sought to maintain control of public thoroughfares, a violation of law, until Beijing and the Hong Kong government made major concessions. Even when courts have ordered some streets cleared, those occupying have not always complied.

After the initial clashes, the Hong Kong government chose not to mount a major crackdown but instead to wait out the protesters. It accepted the occupation for a number of weeks, and now seeks to clear some streets pursuant to court order. Moreover, the government undertook to engage at least one of the students in a dialogue over how to end the crisis. In the only session of the dialogue to occur, on October 21st, senior officials floated ideas to assuage some of the protesters' concerns and to improve upon the electoral parameters laid down by Beijing.

The dialogue has not progressed for two reasons. First of all, the Hong Kong government is not a free agent in resolving the crisis. Beijing is the ultimate decider here, and the Hong Kong

government must stay within the guidelines it sets. Second, the student federation leaders who took part in the dialogue are not free agents either. They represent only one of the student groups, and other actors are involved. With its leadership fragmented, the movement has never figured out its minimum goals and therefore what it would accept in return for ending the protest. It underestimated Beijing's resolve and instead has insisted on the impossible, that Beijing withdraw the August 31st decision. Now, even though the Hong Kong public and the leaders of the original Occupy Central effort believe that the protesters should retire to contend another day, the occupation continues.

For those who believe that the rule of law is a fundamental pillar of Hong Kong's autonomy, the last two months have been worrisome. Once some members of a community decide for themselves which laws they will obey and which they won't; once the authorities pick and choose which laws they will enforce and abide by, the rule of law begins to atrophy. The protesters' commitment to democracy is commendable. The generally restrained and peaceable character of their protest has been widely praised. But something is lost when both the community and its government begins to abandon the idea that no-one is above the law.

Regional views implications

Observers have believed that the implications of the Umbrella Movement are greatest for Taiwan, because Beijing has said that Taiwan will be reunified under the same formula that it used for Hong Kong (one-country, two systems). And there was momentary media attention in Taiwan when the Hong Kong protests began, but it quickly dissipated. The vast majority of Taiwan citizens have long since rejected one-country, two systems. China's Hong Kong policies only reconfirm what Taiwan people already knew.

Hong Kong events also send a signal to all of East Asia's democracies, not just Taiwan. Anyone who studies Hong Kong's politics and society comes to the conclusion that it has been as ready for democracy as any place in East Asia, and that its instability in recent years is due more to the absence of democracy than because it is unready.

The long-standing premise of U.S. policy is that Hong Kong people are ready for democracy. Since the protest movement began, the U.S. government has reiterated its support for the rule of law, Hong Kong's autonomy, respect for the political freedoms of Hong Kong people, and a universal-suffrage election that would provide the people of Hong Kong "a genuine choice of candidates that are representative of the peoples and the voters' will." Washington has also called for restraint on all sides.

Finally, the strategic question for East Asia is what the rise of China means for its neighbors. That question will be answered in part by China's power relative to the United States and others. But it will also be answered by what happens between China and its neighbors in a series of specific encounters. Through those interactions, China will define what kind of great power it will become. North Korea, the East and South China Seas, and Taiwan are the most obvious of these specific encounters. But Hong Kong is as well. If the struggle there for a more democratic system ends well, it will tell us something positive about China's future trajectory. If it ends badly, it will say something very different.

Looking forward, several options exist for resolving the crisis and only one of them is good.

One option is a harsh crackdown by China. Article 18 of the Basic Law gives Beijing the authority to declare a state of emergency in Hong Kong if "turmoil" there "endangers national unity or security and is beyond the control" of the Hong Kong government. In that case, Chinese national laws would be applied to Hong Kong and could be enforced in the same way they are in China. We would then see crowd control, Chinese style. I believe this scenario is unlikely as long as Beijing has some confidence that the protest movement will become increasingly isolated and ultimately collapse.

A second option is that the occupation ends but the unrepresentative electoral system that has been used up until now continues. That would happen because two-thirds of the Legislative Council is required to enact the one-person-one-vote proposal of the Chinese and Hong Kong governments for electing the chief executive. Getting two-thirds requires the votes of a few democratic members. If all moderate democrats oppose the package for whatever reason, then the next CE will be elected by the 1,200-person election committee, not by Hong Kong voters. Protests are liable to resume. There is a danger that in response, Beijing will move quietly to restrict press freedom, the rule of law, and the scope for civil society beyond what it has already done.

The third scenario is for a late compromise within the parameters of Beijing's August 31st decision. The goal here would be to create a process within the nominating committee that would make it possible for a leader of the democratic camp to be nominated for the chief executive election, creating a truly competitive election. That requires two things. First, the nominating committee must be more representative of Hong Kong society. Second, the nominating committee, before it picks the two or three election nominees, should be able to review a greater number of potential nominees. Done properly, that could yield the nomination of a democratic politician whom Beijing does not mistrust but whose platform would reflect the aspirations of democratic voters. Prominent individuals in Hong Kong have discussed this approach in print, and Hong Kong senior officials have hinted a willingness to consider it. For such a scenario to occur, Beijing would have to be willing to show more flexibility than demonstrated so far; the Hong Kong government should be forthcoming about what it has in mind; and some leaders of the democratic camp must be willing to engage both Beijing and the Hong Kong government. In the climate of mutual mistrust that has deepened since August 31st, that is a tall order. But at this point it appears to be the best way out of a bad situation.