

Democracy in Hong Kong
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I am grateful for the opportunity to speak here today about the struggle for democracy in Hong Kong and U.S. policy on that subject. It has been my privilege to work in support of Hong Kong's democrats and rights activists in a number of positions, including as a staffer on this committee under the chairmanship of Senator Helms, and for the Hong Kong Democratic Party and its chairman Martin Lee.

Three points

There are three points I would like to make. First, this year will be decisive for the future of freedom and democracy in Hong Kong. Hong Kong's people have expressed their desire for an elected legislature and chief executive in every way possible – through elections, marches and opinion polls. Meanwhile, Beijing has laid down a tough line against democracy and started a campaign of character assassination against Hong Kong's pro-democracy camp. Beijing has even raised the specter of dismantling the Hong Kong legislature in the event that pro-democracy candidates do well in upcoming legislative elections in which 30 out of 60 seats will be determined by democratic methods.

Second, the attractive-sounding “one country, two systems” formula for Hong Kong's governance under mainland sovereignty, is a fiction. The international community, including the United States, sees in the “one country, two systems” formula the prospect that Beijing will tolerate democratic expansion in Hong Kong. In fact, Beijing never intended to grant real autonomy and maintains significant control over the most important levers of power. By its own account full democracy is not in the cards any time soon.

Third, the U.S. must stop accepting Beijing's blueprint for Hong Kong. It flies in the face of President Bush's support for democracy throughout the world. Beijing's position that democracy is not possible in Hong Kong and its attacks on Hong Kong democrats as “unpatriotic” must be a priority for U.S. policy. Now that Beijing has indicated that democracy is not possible for decades, the U.S. has a choice to make – either to try to advance democracy now, or to acquiesce to a situation that has grave consequences for Hong Kong, for the rest of China and for Taiwan.

Critical moment for Hong Kong.

Last July, Hong Kong was swept up in the most dramatic events since its 1997 return to Chinese rule. Well over one half million people marched to protest new national security laws that would threaten rights of association, press, and religion. This pressure led to the withdrawal of the legislation and the resignation of two very unpopular government officials, one of whom was deeply involved in the national security laws and widely known to be hostile to democracy and civil liberties. A few months later, Hong Kong's democrats made a strong showing in low-level elections for the district councils.

Popular discontent in Hong Kong over Beijing's efforts to implement the new national security laws – the effort to impose them was kicked off by Qian Qichen, the vice premier – went much deeper than the specific laws themselves or the unpopular officials Beijing installed to run Hong Kong. "People in Hong Kong can see that the problem isn't just with an individual, but with the structure," Yeung Sum, an elected legislator and chairman of the Hong Kong Democratic party, told The Washington Post. Hong Kong's people have shown once again, as they often have, that they favor full democracy now. Poll results taken by the respected Hong Kong Transition Project at Hong Kong Baptist University show the same thing.

Beijing sees the upcoming elections in September for the Legislative Council as a threat. Thirty of 60 seats will be up for democratic election. Their political party allies – the Liberal Party and the Democratic Alliance for the Betterment of Hong Kong have lost support politically owing to their stance on the national security legislation. The leader of the DAB, Tsang Yok Sing resigned after the party fared poorly in the district councils elections. While James Tien of the Liberal Party gained some favor for withdrawing support for the national security legislation at a critical moment, he has recently endorsed the mainland position that democrats are unpatriotic.

In response, Beijing has launched an intimidation campaign based on accusations of disloyalty against Hong Kong's democrats. To be sure, Beijing's methods in Hong Kong are different than they are on the mainland. There, members of Falun Gong, the China Democracy Party and labor activists and Tibetans and Christians find themselves arrested, locked up, and even tortured. Just last week, two Protestants were arrested and charged with allegedly obtaining state secrets, a charge which the organization Human Rights in China believes is related to their efforts to document an ongoing crackdown on unofficial Christian churches.

However, while its methods in Hong Kong are so far much less harsh, Beijing is still determined as it is on the mainland. Members may have read Tuesday's story in The Washington Post about Beijing's arrests of Hong Kong residents with

British citizenship. It is impossible to say that Hong Kong's democrats will not face danger in some form of punishment, prosecution or imprisonment in the near future.

What "one country, two systems" really means

Most analysts of Hong Kong concentrate on trends. They ask whether Beijing is interfering or not and whether Hong Kong is less free than it was under British rule. While I would submit that the trend in Hong Kong is not good, and Beijing is interfering in Hong Kong affairs, I would like to suggest that members look at the situation in Hong Kong another way: Beijing never intended Hong Kong to enjoy a high degree of autonomy and definitely not democracy. Indeed, from the beginning Beijing set up Hong Kong's system of governance to prevent that.

In the terms of Sino-British Joint Declaration, a treaty signed in 1984, China offered guarantees for Hong Kong's autonomy and freedom, including an independent judiciary, a free market, civil liberties, freedom of the press and a "legislature constituted by elections." Of course, in the lexicon of the Chinese communist party, democracy and elections mean very different things than they do in Western usage. Great Britain and China agreed that these guarantees would be codified in a Basic Law, drafted by a Beijing-controlled committee and enacted by the National People's Congress without the consent of the Hong Kong people.

The system Beijing set up through the Basic Law gives itself crucial direct and indirect controls over Hong Kong's affairs – including the executive branch, the legislature and important aspects of the judiciary. The chief executive is appointed by Beijing. As a fig leaf, there is a choice made by a small "Election committee" of 800 people overwhelmingly dominated by pro-Beijing appointees. In visits to the United States, Tung Chee-hwa has told members of Congress and others that he won a hard fought election campaign. In fact, the indication that he had won his first term came when Jiang Zemin singled him out for a handshake in a meeting in the Great Hall of the People.

China also has indirect control of the legislature. Only twenty-four of its 60 seats are currently selected through democratic elections. Thirty seats are assigned to functional constituencies that are chosen by business, professional and other groups, many of which are very small. Six seats are chosen by the "Election Committee." While a few of these constituencies return pro-democracy candidates, most are dominated by conservative business people who take Beijing's line.

In the next elections in September, there will be 30 seats up for democratic election, and 30 for the functional constituencies. There is some reason to believe that the professionals who make up some of the functional constituencies

increasingly see democracy and accountable government as essential to Hong Kong's future success. Beijing is undoubtedly concerned about this – as it might in fact lead to pro-democracy candidates winning a majority. Beijing has already threatened to dissolve the legislature if it does not like the outcome of the elections. Incidentally, when China took control of Hong Kong, it dissolved the outgoing legislature constituted under the British, undid the very minor reforms of Chris Patten, and on July 1, 1997, installed the "Provisional Legislature." One of the things this appointed legislature did was to revise the election law to establish a system of proportional representation that was designed to reduce the power of pro-democracy candidates.

As for the future, Beijing's Basic Law does not provide for full democracy. Indeed, there are barriers within the Basic Law to achieving democracy, including provisions that changes to the methods for choosing the chief executive and constituting the legislature be approved by a two thirds vote of the current legislature and the sitting chief executive.

There is quite a lot of discussion going on in Hong Kong now about what Deng Xiao-ping, and the legal experts who drafted the Basic Law, thought or meant about its provisions. One of the legal experts recently said, Hong Kong might have democracy "in the 2040's" or even "the 2030's, but absolutely not as soon as 2007." Such officially-sanctioned remarks point out the gap in perceptions of Hong Kong's future political development between Beijing and the international democratic community. As the Oxford scholar Steve Tsang has written, "To a Westerner, the idea of Hong Kong people administering Hong Kong within the framework of 'one country, two systems' may imply that after 1997 Hong Kong will be free to run its own domestic affairs with no interference from Beijing as long as PRC sovereignty is acknowledged. Such an interpretation is totally unacceptable to Beijing."

However, U.S. policymakers and members of Congress should not engage too much in worrying about what Beijing meant in the Joint Declaration, or in the Basic Law. It is highly problematic for democratic politicians and policymakers to rely on the intent of senior cadres of the Chinese communist party in trying to formulate U.S. policy toward Hong Kong. Which brings me to my third point – that Washington has relied much too heavily on the Basic Law and China's own framework for governing Hong Kong in formulating U.S. policy.

Critical moment for US policy

U.S. policy toward Hong Kong has reached a critical moment. For many years, the U.S. has accepted Beijing's blueprint for Hong Kong's political development. In fact, Secretary Powell did so just yesterday at the Heritage Foundation when he expressed his desire that Hong Kong's "political culture continue to thrive under the 'Basic Law.'" On the few other occasions on which top U.S. officials

have spoken publicly about Hong Kong, they too have linked U.S. support for democracy to the provisions of the Basic Law.

The U.S. has for many years tried to avoid confronting Beijing over Hong Kong. Before the handover, the U.S. felt that it could stay in the background while Great Britain negotiated its way out of its colonial rule. The U.S. tried to take the position that while it wanted Beijing to respect its commitments in the Joint Declaration, the U.S. had no claim to be able to determine that any particular Chinese action violated those commitments. On one occasion, assistant secretary of state Winston Lord told this committee, "The United States does not offer legal interpretations of agreements to which it is not a party." This overly legalistic approach enabled the U.S. to stay silent while Beijing was putting its controls in place.

To be fair, the U.S. does more than any other country to express support for the ideal of democracy in Hong Kong. President Bush raised Hong Kong with General Secretary Jiang Zemin during their meeting at the president's ranch in Texas when the effort to pass the national security laws was just getting underway. Later, last summer, U.S. public comments on its reservations on the national security laws were quite important. But it was also problematic that President Bush did not raise Hong Kong with General Secretary Hu Jintao at the last G-8 meeting. Over all the U.S. has a short term approach to Hong Kong, trying to mitigate the worst developments, but failing to pursue a democracy agenda of its own.

A stronger response, and a broader vision, is necessary. First, the U.S. should respond to the intimidation campaign against democrats. Not doing so lends credence to the attacks on people, including Martin Lee, for associating themselves with democracy and seeking support from the international community of democracies, including the United States.

Second the U.S. must resolve the inherent contradiction in its policy. The U.S. cannot advance democracy in Hong Kong according to terms set forth and interpreted by Beijing. Questioning the provisions of the Basic Law is not a challenge to Beijing's sovereignty, no matter how much Beijing suggests that it is. So long as Washington seeks to advance democracy within the constraints set down by Beijing, two things will be true: democracy will not advance, and Hong Kong's democrats will face serious jeopardy.