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THE DISMANTLING OF HONG KONG'S CIVIL SOCIETY

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BEFORE THE

CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

ONE HUNDRED SEVENTEENTH CONGRESS

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THE DISMANTLING OF HONG KONG'S CIVIL SOCIETY

TUESDAY, JULY 12, 2022

CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA,
Washington, DC.

The hearing was held from 10:00 a.m. to 11:47 a.m., room 562, Dirksen Senate Office Building, Washington, D.C., and via WebEx, Senator Jeff Merkley, Chair, Congressional-Executive Commission on China, presiding.

Also present: Representative James P. McGovern, Co-chair, Congressional-Executive Commission on China; Senator Jon Ossoff and Representative Chris Smith.

OPENING STATEMENT OF HON. JEFF MERKLEY, A U.S. SENATOR FROM OREGON; CHAIR, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

Chair MERKLEY. Good morning. Today's hearing of the Congressional-Executive Commission on China entitled "The Dismantling of Hong Kong's Civil Society" will come to order.

Earlier this month, Hong Kong marked the 25th anniversary of the British handover to the People's Republic of China. Instead of celebrating the high degree of autonomy and universal suffrage promised to the people of Hong Kong, this anniversary served as an occasion for Chinese leader Xi Jinping to go to Hong Kong and flaunt the control he now wields over the city. It's now been two years since implementation of Hong Kong's draconian National Security Law.

In these two years, authorities completed the transformation of Hong Kong from an open society into a city gripped by fear—fear of the mainland's authoritarian repression. A city that once boasted a vibrant civil society and pro-democratic institutions saw these pillars of what made Hong Kong so special systematically dismantled. The Hong Kong government now jails protesters and politicians, shuts down independent media, and silences critics, even criminalizing dissent.

At least 10,500 Hong Kongers have been arrested for political and protest-related offenses. No fewer than 123 individuals face national security charges and will likely be tried with few or no due process protections and with possible extradition to mainland China. At least 65 civil society organizations have shut down or left Hong Kong for fear of prosecution under the National Security Law. Today, sadly, that once-vibrant civil society is crushed, muted, and scattered.

Today's hearing offers a microcosm of what's happened and what remains. Our witnesses bring a deep history in civil society in Hong Kong, as well as experience being persecuted and having to continue their work in exile, in Tokyo, in London, in Los Angeles, and here in Washington, DC. Like so many, they continue to fight for the people of Hong Kong and its once-proud institutions.

In recent months, this Commission has heard from dozens of Hong Kong's true patriots: journalists, human rights advocates, students, former legislators, social workers, and religious clergy, nongovernmental organization staff, doctors, nurses, lawyers, teachers, and trade union organizers. In the coming days, we will release a report on what those members of civil society have experienced, largely in their own words. Today's hearing offers a glimpse into that bleak picture. The Chinese government's policy of crushing resistance turns Hong Kong into a city subject to centralized political control, like other cities in China. The civil society voices we've heard from view authorities as co-opting those who can be bought, constraining those who can be intimidated, and cracking down on those who cannot be silenced.

As we hear some of those stories today, I look forward to learning from our witnesses what we can do to support the civil society that remains in Hong Kong and organizations that now operate elsewhere on behalf of the people of Hong Kong. I look forward to exploring with the Biden administration additional steps that can be taken to hold accountable those responsible for undermining Hong Kong's autonomy, basic rights, and rule of law.

Later today, the Commission will release a report—a staff analysis—on the role of Hong Kong's prosecutors in these abuses. We hope that this analysis, like the work we do documenting political prisoner cases generally, will shine a light in a dark place and point to a better path ahead. Without objection, these supplementary materials will be entered into the record.

I now recognize Congressman McGovern for his opening remarks.

STATEMENT OF HON. JAMES P. MCGOVERN, A REPRESENTATIVE FROM MASSACHUSETTS; CO-CHAIR, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

Co-chair MCGOVERN. Well, thank you, Mr. Chairman, for holding this hearing on the erosion of civil society in Hong Kong. Hong Kong has long been a particular interest of this Commission. From the start, 20 years ago, our annual report has included a discrete Hong Kong chapter. This is the sixth hearing on Hong Kong, or featuring a witness on Hong Kong, in my three and a half years as House co-chair. The reason for this heightened attention is regrettable, however.

The changes during this time have been dramatic. Three years ago this summer, the world witnessed massive protests in the streets of Hong Kong. The trigger was an extradition treaty that put residents at risk of being forcibly sent to the mainland. The context was the steady erosion of democratic norms under Chinese government and Communist Party influence. For our September 2019 hearing on the protests, witnesses flew in from Hong Kong. They would not be able to do that today.

One witness was Joshua Wong, a leader of the pro-democracy movement, making his second appearance before the CECC. Today he is in prison on political charges. Another was Denise Ho, a democracy activist and singer. She was arrested and released on bail and still faces charges of the crime of supporting democracy. In 2020, the central government passed the National Security Law, providing a "legal" basis for political persecution of those deemed oppositional to the Party's priorities.

Further, Hong Kong authorities have imposed measures aligned with the ideological priorities of the central government. These include removing books from libraries, pushing patriotic education in schools, revising history to suit party narratives, and suppressing LGBTQ voices. These impulses are not exclusive to Hong Kong or China. We see such evidence of authoritarianism creep in in many places at home and abroad.

Today we hear from citizens and residents of Hong Kong who have been firsthand witnesses to this extraordinary change. The fact that none of our witnesses remains in Hong Kong is indicative of the crackdown. We invite them to share their stories and to speak for their friends and colleagues still in Hong Kong who are not able to speak for themselves. We not only want to hear about the state of civil society, but to receive recommendations, as the chairman said, on what U.S. policymakers can do to support those who still desire democracy and human rights.

I also welcome your recommendations on whether the U.S. should create humanitarian pathways for those fleeing repression in Hong Kong. Lastly, let us not forget the prisoners of conscience who are in jail or on trial in Hong Kong—Joshua Wong, Jimmy Lai, Cyd Ho, Claudia Mo, and so many others. We continue to stand with them and to advocate for their release.

Again, thank you, Mr. Chairman. I know the staff is working on analytical products in conjunction with this hearing, and I look forward to their publication. I look forward to the testimony today. I yield back.

Chair MERKLEY. Thank you very much, Co-chair McGovern.

Congressman Smith, do you wish to make any opening comments?

STATEMENT OF HON. CHRIS SMITH,
A REPRESENTATIVE FROM NEW JERSEY

Representative SMITH. Thank you very much, Mr. Chairman. First of all, I want to thank you, Mr. Chairman, for organizing this very important hearing on the very disturbing dismantling of civil society in Hong Kong that we see taking place right before our very eyes. Last October, I had convened a hearing at the Tom Lantos Human Rights Commission, which I co-chair with my good friend and colleague Jim McGovern, on the state of civil and political rights in Hong Kong. What we heard then with regard to the erosion of civil and political rights was deeply concerning, but as much as the danger signs were all flashing red some nine months ago, the situation has only gotten worse since then, as we shall hear from our witnesses.

While this deterioration has impacted civil society organizations across the board, I want to focus on one aspect of civil society that

until very recently has been very vibrant, namely, the faith-based sector and parochial education provided principally by Catholic schools. Indeed, though estimated as constituting only 5 percent of the overall population, the Catholic imprint on Hong Kong's elites has been quite profound. One thinks of the great democracy advocate and lawyer Martin Lee, whose faith motivated his commitment to democracy and the rule of law, Albert Ho, former chairman of the democratic party, and Anson Chan, the former chief secretary who pushed for direct democracy for Hong Kong.

Or Jimmy Lai, the billionaire who founded the Giordano clothing and retail emporium, as well as founded and financed the fiercely independent Apple Daily, which was shut down by the government in June of last year. Jimmy, a convert to Catholicism, was arrested and charged with crimes under the draconian National Security Law, which was enacted in 2020 at the behest of the Chinese Communist Party. Jimmy remains in jail, but he is a man of faith who easily could have fled to safety like the roughly 90,000 citizens who left Hong Kong between June 2020 and June 2021, because he is or was a rich man. Yet Jimmy stayed in Hong Kong to stand with those who spoke for freedom. Such a heroic man.

Towering above all is Cardinal Zen, who for years has been warning about Communist China's efforts to control the church, in particular its Catholic schools, as well as education in general. The church resisted efforts in 2012 to impose propagandistic citizen education using mainland-approved textbooks in Catholic schools, which was a mere 10 years ago. Fast-forward to today, however, and the teachers are being purged from schools at all different levels in Hong Kong, not only Catholic ones. The cardinal has been a thorn in the side of Beijing, as well as those in Hong Kong who sought to do the Chinese Communist Party's bidding.

Thus, one perhaps should not be surprised that at the beginning of this year a series of four articles appeared in Ta Kung Pao, a newspaper owned by the Chinese government via its liaison office in Hong Kong, attacking the cardinal. They ominously liken him to practitioners of Falun Gong, whose adherents are horribly persecuted in mainland China, while also calling for greater curtailment of religious liberty.

Then at 90 years of age, the next shoe dropped. The cardinal was arrested in May of this year and charged under the National Security Law. His offenses included subversion, in other words supporting democracy protesters, and collusion with foreign organizations. The latter is especially chilling when one considers how in communist China the Catholic Church was deemed a foreign power, with Chinese Catholics on the mainland forced to either join a patriot church or go underground.

Yet these heroic individuals aren't the only prominent Catholics in Hong Kong. Both former chief executive Carrie Lam and current executive John Lee, who previously served as secretary of security, identify as Catholics and went to Catholic schools. These are the two individuals most closely associated with implementing Beijing's policy mandates and enforcing the National Security Law, leading to the dismantling of Hong Kong's civil society. Indeed, just the other day the Holy See's envoy and unofficial representative in Hong Kong, Monsignor Javier Herrera Corona, warned Hong Kong

Catholics that the freedoms they have enjoyed in the past are now fast disappearing and cautioned missionaries that Hong Kong is "not the great Catholic beachhead it was."

What is so frustrating about this is all the signals that were missed here in Washington, indeed here in Congress as well, leading up to this. I first introduced the Hong Kong Human Rights and Democracy Act in 2014. It was the time of the Umbrella Movement, which began in response to a decision by the Standing Committee of the PRC's National People's Congress to pre-screen candidates for Hong Kong's chief executive position, effectively excluding those Beijing deemed unreliable.

A new generation of democracy leaders, as we all know, emerged, including great student leaders like Joshua Wong and Nathan Law. International observers and the foreign media cheered these advocates, as did we, and there was a sense of optimism and enthusiasm. Perhaps because of that optimism at the time it was hard to get our congressional colleagues to see clearly the gathering threat to Hong Kong's democracy and civil and political rights. Our bill had only five co-sponsors that year, including now-Speaker Nancy Pelosi.

As I have noted in the past, many believed that Hong Kong, with its greater freedom and free trade principles, could help turn and tug the People's Republic of China in a liberalizing fashion. Hong Kong's Basic Law was a mini constitution that some believed could serve as a model for expanding respect for the rule of law in China one day. Such hope, sadly, proved illusory. In March of 2019, the Hong Kong government proposed extraditing alleged criminals to China, raising fears that political dissidents could be sent to mainland China to face charges over exercising basic freedoms.

Hong Kong's government, using an increasingly aggressive police force, began to resemble that of mainland China in responding to legitimate protests, speech, and peaceable assembly. Congress too awakened to the changed situation and with now 47 co-sponsors, and under the leadership of Speaker Pelosi, our Hong Kong Human Rights and Democracy Act passed the House, with Lantos Commission co-chair Jim McGovern, I'm happy to say, as the lead Democrat. Indeed, that same day, Jim's bill placing restrictions on tear gas exports and crowd-control technology to Hong Kong also passed, with me as the lead Republican co-sponsor.

When the Hong Kong Human Rights and Democracy Act was enacted into law, the Trump administration declared that Hong Kong was no longer "sufficiently autonomous" to warrant being treated as being independent of China for trade and technology export purposes, and further sanctioned key individuals in the Hong Kong government, including Carrie Lam. While we could point to this as a victory, with Republicans and Democrats united, frankly speaking we all know it was a case of too little and too late—certainly too late to help save democracy and civil society in Hong Kong.

Thus, here we are, no longer at a crossroads but further down the wrong road. Where we go from here depends in part on whether the world is paying attention, and especially whether we here are paying attention, which is why this hearing today is so important. To Martin Lee, Albert Ho, Cardinal Zen, Jimmy Lai, and Joshua Wong, and all of those who have been unjustly arrested or

imprisoned, please know—please know you are not forgotten. With that, I look forward to hearing from our very distinguished witnesses. I yield back.

Chair MERKLEY. Thank you very much, Congressman.

I'd now like to introduce our panel of witnesses.

Patrick Poon is a visiting researcher at the Institute for Comparative Law at Meiji University in Tokyo. He is advisor to the 29 Principles, a United Kingdom-based organization supporting lawyers facing oppression. In his years in Hong Kong, he served as a court reporter for the South China Morning Post, China Labour Bulletin, the China Human Rights Lawyers Concern Group, the Independent Chinese PEN Center, and Amnesty International.

Fermi Wong is founder and former executive director of Hong Kong Unison, a group that promotes equality for ethnic minorities. Her work running a civil society organization in Hong Kong has been featured in Time magazine, the South China Morning Post Magazine, and Hong Kong Free Press. Now in the United Kingdom, she seeks to promote Hong Kong civil society abroad.

Ching Cheong is a veteran journalist who worked for the state-owned Wen Wei Po newspaper for 15 years, acquiring knowledge of the Chinese Communist Party's interference in Hong Kong affairs. He is featured in a recent Economist article titled, "How a Free and Open Hong Kong Became a Police State." Before he left Hong Kong, he was involved with independent media and journalist organizations. He joins us from Los Angeles this morning.

Samuel Bickett is a human rights lawyer focused on the rule of law and civil liberties in Hong Kong, and a fellow at the Georgetown Center for Asian Law. He was a corporate sanctions/corporate corruption lawyer based in Hong Kong from 2013 to 2021. He was arrested during the 2019 protests and convicted, imprisoned twice, and then deported from Hong Kong earlier this year.

Thank you all for joining us to bring your stories, your knowledge, and your expertise. We look forward to your testimony. We will begin with Patrick Poon, who's joining us from Tokyo.

STATEMENT OF PATRICK POON, VISITING RESEARCHER, INSTITUTE OF COMPARATIVE LAW, MEIJI UNIVERSITY

Mr. POON. I would like to thank the CECC and the distinguished audience for giving me this opportunity to share my experience and my views on the situation of civil society in Hong Kong. I'll focus on the drastic change of civil society space from the time I changed my job as a journalist to become an NGO worker with local and international NGOs since the early 2000s to the era of red net, as I would describe it, after the National Security Law was imposed on Hong Kong by the Chinese authorities.

"Red line" is simply not enough to describe the scope. The Hong Kong and Chinese governments wouldn't even make clear where the red line is, so they can arbitrarily restrict Hong Kong people's freedoms. The message is clear—you can only survive if you don't challenge the government. When I started my NGO career focusing on supporting workers, writers, and lawyers in mainland China, the civil society was very vibrant. We could organize all kinds of activities, ranging from staging demonstrations to call for the release of detained dissidents in China to arranging for writers and

lawyers to meet with their counterparts in Hong Kong. We never experienced any interference or felt any threats.

Even when I was an Amnesty researcher, I wouldn't fear too much for my personal safety when I commented on the detention of Chinese dissidents or when I worked on documenting Uyghur and Kazakh cases in relation to the political reeducation camps. I still remember how a mainland Chinese writer once exclaimed when he arrived in Hong Kong, when I met him at the train station. He said, I could finally breathe the air of freedom. It was a time when many young university graduates in Hong Kong were willing to take a relatively low salary to work on issues so that we could do something to help our friends in China.

During that time, I was able to communicate with many high-profile mainland Chinese dissidents without fear. Late Nobel Peace Prize laureate Liu Xiaobo had so much hope for Hong Kong's support that he contacted me and several others in Hong Kong in late 2008 to invite prominent pro-democracy figures in Hong Kong to co-sign Charter 08. Many of those democratic figures, some of them now in prison, and myself, were among the first batch of co-signatories. We didn't need to think much when we decided to co-sign it.

These experiences led me to continue my work at international NGOs like Amnesty as I believed that it is significant to push China to comply with its international obligations. It was unimaginable at that time that Hong Kong's freedom of expression and freedom of assembly would be completely gone. Even prayer meetings or masses to commemorate the victims of the Tiananmen massacre are now deemed too sensitive. For NGOs in Hong Kong, we used to feel secure to organize talks on Hong Kong issues in China and Hong Kong, whether public or closed door, with universities in Hong Kong. We didn't need to worry too much about our personal safety compared with activists in mainland China.

But now everyone needs to have second thoughts or self-censor the content of the events before planning such activities. We used to be able to organize public talks by inviting human rights lawyers from China to share their experiences with the general public. Now it's just unimaginable that similar activities could be done anymore in Hong Kong. We used to be able to hold public rallies, from small-scale demonstrations outside China's Central Government Liaison Office calling for the release of detained Chinese dissidents to mass rallies calling for universal suffrage in Hong Kong, without any interference.

Police officers at that time were friendly and would even engage in discussing the route with the organizers. The police made it very clear to us that we didn't need to get their permission to hold any rallies. We only needed to inform them and they would routinely issue a letter of no objection, only formalities, despite the Public Order Ordinance (that has been repeatedly criticized by UN human rights experts as restrictive of freedom of assembly). Sometimes the police would even call us to confirm that we would be organizing a demonstration if we forgot to inform them in advance.

However, after the anti-extradition bill protests in 2019 and the imposition of the NSL in 2020, the situation has completely changed. Anybody appearing in places like Victoria Park, where

the annual candlelight vigil to commemorate the Tiananmen massacre used to take place on June 4th would be questioned by the police and warned that they would be charged with illegal assembly if they stayed there. Like many Hong Kongers, I honestly didn't believe that unionist Lee Cheuk-yan, solicitor and former legislator Albert Ho, and barrister Chow Hang-tung, leaders of the now disbanded Hong Kong Alliance in Support of Patriotic Democratic Movements of China which organized the annual candlelight vigil, would be accused of inciting an unauthorized assembly for an assembly that had been allowed for over 30 years. They are now even facing the same notorious charge of inciting subversion of state power, like many Chinese activists.

Finally, I would also like to share a bit about my experience as a former court reporter, as I'm puzzled at how difficult it is to cover court news in Hong Kong nowadays. I covered quite a lot of trials about protesters being accused of obstruction in a public place for staging small-scale protests that occupied some space, such as outside China's Central Government Liaison Office. Those were big news in those days. The sentences the protesters faced at that time were about a few weeks. Granting bail was considered normal. I never heard any judge at that time say that they didn't trust that the defendants would commit the said offense during bail.

Presumption of innocence was well observed. Reporters wouldn't feel any restrictions on reporting anything in open trials, except for knowing that we shouldn't disclose the facts for cases that would be committed to be tried at the high court. Now everything has changed. Even reporting details about bail application is banned by the courts in Hong Kong. Judges rarely consider public interest when they make judgments. I appreciate that there have been some efforts to pressure the Hong Kong and Chinese governments. However, the situation won't change if the Hong Kong and Chinese governments can't see the real consequences. We shouldn't give them the impression of business as usual as they are cracking down on our civil society.

While various governments have issued statements expressing concern about the erosion of human rights in Hong Kong, it's difficult to see any real impacts as the Chinese and Hong Kong governments have realized that they can continue doing business despite severe criticism of human rights records. Authoritarian regimes like China and their supporters have learned that they can divert attention of all criticism on human rights by pointing out that there are also serious human rights violations in democratic countries.

However, checks and balances is what democracies should emphasize distinguishes them from tyrannies. Democratic governments should make the business community realize that there are real consequences for colluding with dictatorships. Combining the effort of pushing China and Hong Kong to comply with international human rights standards, and economic sanctions on senior government officials, would be the most effective and mutually beneficial way to ensure accountability. Otherwise, democracies will eventually succumb to authoritarian propaganda, which nobody would want to see. Therefore, I would urge the U.S. Government

to impose further sanctions on all senior government officials in Hong Kong and China. Thank you.

Chair MERKLEY. Thank you very much, Mr. Poon. Your description of an individual coming to Hong Kong and saying, I could finally breathe the air of freedom, is certainly a description of an event that can no longer take place in any shape or form. I really appreciate your testimony.

We are now going to turn to Ms. Wong. Ms. Wong is joining us from the United Kingdom.

STATEMENT OF FERMI WONG, FOUNDER AND FORMER EXECUTIVE DIRECTOR, UNISON

Ms. WONG. Dear Mr. Chair, Co-chair, and other commissioners, thank you very much for holding this hearing. It really means a lot for us. I got a little emotional when Mr. Chris Smith mentioned those names. They all are my dear friends. I miss them a lot, and I can't see them in Hong Kong anymore.

I was born in China and spent my whole childhood there. It was in Hong Kong that I experienced awakening to the universal values of freedom, equality, social justice, and individual rights. I have spent almost my entire adult life in civil society and my main focus is fighting for equality for ethnic minorities in Hong Kong, especially those of South Asian origin like the Nepalese, Indians, and Pakistanis. I also joined the democracy movement, fighting for universal suffrage in Hong Kong.

Hong Kong used to be the capital of protests for good reasons. First, the Hong Kong government was not democratic and not so responsive. After the handover, the formulation of government policies was very bad. We learned that it was only when issues were taken to the streets that officials might respond. Second, because there were independent media, and they did a very good job, that helped to put pressure on the government and draw public attention and concern. The third reason is we Hong Kongers now have very high awareness of our freedom of assembly and speech, so we use protests and marches, and petitioned to defend our individual rights.

The last reason was there was a huge gap between rights promised and rights delivered. The Basic Law Article 39 provides for human rights protections as guaranteed by the Hong Kong Bill of Rights, the ICCPR, and the ICESCR. And also, we do have four pieces of equal opportunities laws, namely a disability discrimination ordinance, a race discrimination ordinance, and a sex discrimination ordinance, and a family status discrimination ordinance. However, the National Security Law has taken away all these rights. We say the civil society in Hong Kong is dead now, no more.

When I first read the National Security Law, I was very naive. I thought that the crimes of secession, sedition, terrorism, and collusion with foreign forces should be of no concern to my work fighting for equality for minorities. But then I noticed that the National Security Law instructs the Hong Kong government to "strengthen propaganda, guidance, supervision, and administration" over "schools, social groups, media, and the internet." Soon I realized that the National Security Law meant a total crackdown on civil society.

In Hong Kong, many non-governmental organizations (NGOs) that provide social services for people who are in need, almost 100 percent receive funding from the government. So after the handover, and also our amendment on funding mode, that means all NGOs need to sign a Funding and Service Agreement (FSA) with the government every three years, and that created very serious self-censorship. Now no more social service agencies are criticizing government policies. We have another setup if you want to criticize or challenge unfair policies and unjust systems—we would go to the civil societies or we set up our own civil societies. I must let you know that in Hong Kong, civil society is entirely separate and different from NGOs.

For social services now, completely silenced. Just recently we had an amendment to our professional social workers ordinance that anyone who violates the National Security Law would be deregistered and their license would be taken away forever. Then the Labor Bureau is organizing study groups on the speech that Xi Jinping gave on the 25th anniversary of the handover. This is very important—the Labor Bureau or the government officials, they count who is present and who is absent. What does that mean? It means that if you are present, you are loyal enough and it will be easy for you to get government funding. Now only those NGOs that are seen as patriotic can get funding. If those NGOs don't really cooperate with government policy or join the study groups, I'm afraid it's very difficult for them to survive. This is the case in the social work profession and also the NGOs in Hong Kong. I would like to talk about civil society.

I first joined the Civil Human Rights Front back in 2002. Back when it was set up I joined it, when I was advocating for legislation against racial discrimination. I really relied on civil society, the joint effort to pressure the government. For example, because there was very poor education policy for ethnic minorities, especially those from the working class. I need to cooperate with the Professional Teachers' Union, and now it has been shut down, no more. Then all the Pakistanis, Nepalese, Indians, the working class, you know, they do not enjoy equal wages. They were discriminated against in the workplace. We need trade unions. I always went to Lee Cheuk Yan, CTU, Confederation of Trade Unions. Now it's shut down and Lee Cheuk Yan is in jail.

I needed to rely on some different civil societies; the Civil Human Rights Fund now is also gone. No more. And then another issue is, before, I used to join the civil societies delegations to lobby at the UN, because Hong Kong has signed a lot of human rights conventions and covenants. We did not really worry and weren't afraid of being prosecuted. But now this time just last week, at the hearing on the CCPR, on the China report, you saw the committee members needed to ask the Hong Kong official delegations whether they could guarantee no Hong Kong civil societies would be prosecuted when they return to Hong Kong.

It is a very different story now. If I try to criticize any government policies for the media— of course now I doubt any media would report on it. But if they had, I might be accused of inciting hatred toward the government, and then it's also violating the National Security Law. I just want to tell you that for the civil soci-

eties in Hong Kong, it's very difficult to survive. We could only rely on public donations during the mass rallies, or crowd funding, but now we can't do it because you would be accused of money laundering. Then if we try to go to local corporate or local private family foundations, you can't because no one will support you because they dare not upset the government.

Then if you receive any funding from overseas, that means you are colluding with foreign forces. Now we are stuck. We don't have any way out at all. So, Mr. Chair and dear commissioners, I would like you to continue to pay attention to the Hong Kong situation. Then maybe please join hand in hand with democratic countries to defend human rights and democracy for the world and put aside those very short-term interests of doing business with China. Thank you very much.

Chair MERKLEY. Thank you, Ms. Wong. I appreciate your focus on many aspects of social media and also on the role of the media.

Speaking of the role of the media, that's a good transition to our next panelist, Ching Cheong. Ching Cheong is joining us from Los Angeles. Mr. Ching.

STATEMENT OF CHING CHEONG, VETERAN JOURNALIST

Mr. CHING. At the time when Beijing began to draft the Basic Law, Beijing reminded the law drafters that post-1997 Hong Kong should only be an economic city and not a political one, which suggested that the thriving civil society might be curtailed. The Chinese Communist Party was worried that civil society organizations might be used as vehicles for the infiltration of Western influence to subvert this one-party dictatorship.

In the early 1990s, I gained access to a report by the National Security Ministry which identified five social groups that might be potentially dangerous to the CCP. These included journalists, religious leaders, lawyers, educators, and social workers. In 2003 Beijing mapped out a detailed plan aimed at suppressing these five groups. It compiled a database of the prominent figures in each of these sectors and classified them according to their political attitude toward the CCP—either as friendly, neutral, or animus—and developed different united front strategies for them, either to co-opt or eliminate them. It set up also a psychological warfare department to discredit those who were considered as not friendly.

Beginning in 2003, the CCP took several important measures to abrogate its Basic Law commitments. All these measures were aimed at imposing the CCP's will on Hong Kong and gradually convert Hong Kong from a free society to an authoritarian one. Such efforts culminated in the enactment of the draconian National Security Law in 2020, which ultimately destroyed Hong Kong's civil society. Within the first year of its enactment, more than 60 civil society organizations were disbanded.

Now I'll focus on the media sector. Before 1997, Hong Kong's media market was characterized by its plurality and diversity in its editorial lines. At those times, most of them were Taiwan-friendly. To reverse this situation, the CCP started a massive united front strategy, trying to convert the political stance of these newspapers. At that time, the number one man in Hong Kong, Mr. Xu Jiatun, began to adopt a friendly approach by wining and dining news-

paper owners and executives. The most successful case has been Sing Tao Daily and Ming Pao, which used to be against China taking back Hong Kong.

Other means to transform the Hong Kong media included outright acquisitions of shares of major news outlets by pro-China business tycoons, like the South China Morning Post, Ming Pao, and the TVB. Such acquisitions resulted in obvious changes in their respective editorial policies. By 2014, the remaining mainstream news outlets that were still critical of the CCP and supportive of the democracy movement were Jimmy Lai's Next Magazine and Apple Daily, together with a few web-based media such as Stand News and Citizen News.

The enactment of the National Security Law gave the authorities wide-sweeping power to shutter all the remaining pro-democracy news outlets, with Apple Daily and Stand News bearing the full brunt. The chilling effect was obvious. The FCC voluntarily suspended its annual Human Rights Press Awards, citing the elusive red line in the National Security Law. The Hong Kong Journalists Association lowered the threshold for dissolution in anticipation of the pressure to disband itself.

The Independent Commentators Association, which I was instrumental in setting up, set up to safeguard media freedom, went into silent voluntary dissolution. To avoid the ax, the editorial policies of news outlets had to toe Beijing's line. The obvious example is to call the Russian invasion of Ukraine a "special military operation" instead of an invasion and churn out commentaries that blame the U.S. for precipitating the Russian invasion.

Now, I want to turn to the lessons for the world. In a short span of 25 years, a once-free society soon degenerated into an authoritarian one. For over a century, Hong Kong had served as the haven for the political dissidents from China; now it has become the exporter of political refugees itself. Once prized as the freest place in the Chinese-speaking world, Hong Kong experienced unprecedented curtailment of freedom of speech and expression. The pearl of the Orient, a highly successful crossbreed of East and West civilizations, began to lose its luster, and it is an irreparable loss to the whole world.

Thus Hong Kong provides a classic example of how, in time of peace, a free society based on the rule of law is being converted into an authoritarian one in which law itself becomes a tool of political repression. The world should learn from Hong Kong's tragic experience and draw important lessons therefrom to avoid begetting the same fate. What alarms me is that the tactics the CCP used to convert Hong Kong are being applied in Western democracies as well. These familiar tactics include propaganda, united front strategy, party-building mechanisms, infiltration, and intelligence, to name the most obvious ones.

All these tactics are clearly at work in the West now. Hence, the dreadful experience of Hong Kong provides a wake-up call for the whole world. Caring about Hong Kong is not just for Hong Kong's own sake, but for the sake of the whole world. Since we witnessed first hand how the fundamental pillars of a free society can be easily destroyed by the CCP, we feel duty bound to explicitly state the obvious danger.

So I come to my policy recommendations, one for Hong Kong and one for the U.S. On Hong Kong, we hope Congress will pass the provisions in Section 30303, the Hong Kong Freedom and Choice provisions, and other Hong Kong-focused measures in H.R. 5421 as soon as possible. For the U.S., I hope Congress will try to proactively step up the surveillance of CCP-related activities in the U.S. Under the framework of the CECC, I think it should find out ways to combat or reverse the appeasement sentiments toward the CCP, which is, I found, quite rampant in the U.S. Thank you for giving me this chance to express my ideas.

Chair MERKLEY. Well, thank you, Mr. Ching.

Our fourth witness is able to join us here in Washington, DC. We see how scattered our witnesses are—Japan, Los Angeles, the United Kingdom. We're glad to have Mr. Bickett here in person to share his story and his experience as a human rights lawyer, which bears so directly on the challenges faced in Hong Kong. Welcome, Mr. Bickett.

STATEMENT OF SAMUEL BICKETT, AMERICAN LAWYER AND ACTIVIST; FELLOW, GEORGETOWN CENTER FOR ASIAN LAW

Mr. BICKETT. Thank you, Mr. Chairman, for inviting me to testify today. The Hong Kong justice system has been corrupted by Beijing's repressive security apparatus. If a case is of political interest to Beijing, a defendant has little hope of receiving a fair trial. Compared to the National Security Law, little is said about the deterioration of traditional common law courts, but the vast majority of political prisoners were charged under laws on the books for decades, which have been twisted to suit Beijing's current purposes.

High-profile political defendants wrongly charged in these courts face an impossibly rigged system. Many ordinary judges have been willing participants in dismantling the rule of law. The burden of proof has been turned on its head. Rather than requiring the prosecution to prove its case, judges often declare that defendants haven't sufficiently proved their innocence, and judges regularly ignore or even falsify exculpatory evidence to reach a guilty verdict.

Judges who follow the law are punished. When Beijing attacked several judges who acquitted protesters in 2020, the judiciary's leadership removed them. State media harassed one judge so severely that in 2021 he abruptly resigned and moved with his family to the U.K. Similar purges have taken place in the DOJ and police. The message to civil servants has been clear: Get in line or suffer the consequences.

Private lawyers are next. The Law Society and Bar Association recently launched investigations into dozens of lawyers for their work representing protesters. Many human rights lawyers have already been harassed out of town. One judge has even suggested lawyers offering services to protesters may be criminally liable as accomplices. While others have gone through much worse, including many that the commissioners spoke of earlier, my own experience illustrates how deeply corrupted the process has become.

In December 2019, I came across two men in an MTR station in Hong Kong beating and choking a teenager with a baton. As cellphones recorded the incident, they denied that they were police

officers. I grabbed the baton, stopped the attacks, and detained one of the men until the police came. But the police claimed then that the man, Yu Shu Sang, was actually a police officer. Yu admitted to the police that he had not only lied about being a police officer, but that he had also falsely accused the teenager of a crime he didn't commit. All of this was caught on video. Nonetheless, the police arrested me and let the attackers go free.

At the police station, I underwent a common interrogation method in Hong Kong. They put me in a room with the temperature set at around 35 degrees Fahrenheit for hours at a time, periodically taking me out for interrogation, before putting me back into the near-frozen room. I spent two days in custody before getting bail. The DOJ is required by law to act independently, but in political cases it is the police calling the shots. The first prosecutor in my case told us that the police pressured her bosses to pursue the charges because I was a foreigner who had "embarrassed the police" on camera. She was soon replaced.

After that, at every court hearing, two police officers sat behind the new prosecutor, Memi Ng, and instructed her. This scene, police officers literally whispering into the ear of prosecutors, is now common in court in almost every political case. At my May 2021 trial, we showed exculpatory videos, and police officers openly admitted to lying repeatedly, destroying evidence, and witness tampering. Magistrate Arthur Lam simply disregarded all of this and outright invented a new set of facts, unconcerned about how this conduct would look to observers. This has also become very common. In these common law cases, non-NSL cases, we see it all the time, and it's not talked about enough.

He then sentenced me to four and a half months in prison. After nearly two months behind bars, I was released on bail so that I could appeal. The court assigned the case to a notorious National Security judge, Esther Toh. Judge assignments are supposed to be random, but they no longer are. High-profile political cases almost always go to a small circle of the most virulently pro-Beijing judges. Again, I'm not talking about National Security cases, which of course do. These are regular common law cases. Judge Toh of course upheld my conviction and sent me back to prison for the rest of my sentence.

There's much that the U.S. and its allies can do to increase the cost of Hong Kong's crackdown. I'm just going to address three of those proposed actions today, all of which would protect American interests as well. First, existing sanctions are nowhere close to sufficient as a deterrent. I urge Congress and the White House specifically to issue sanctions against mid-level prosecutors and police officers, casting the net wide and low enough to send a message to the civil service's rank and file: If they continue to infringe on defendants' rights, there will be consequences.

Additionally, I urge Congress to finally provide a special immigration pathway for Hong Kongers to live and work in the United States and eventually obtain citizenship. Those now fleeing Hong Kong will make exceptional contributions wherever they land. It is America's loss, and frankly America's shame, that the country is not doing more to attract them here. Passing the America COM-

PETES Act with the Hong Kong refugee provisions intact would be a good first step.

Finally, many American companies continue to fund China's abuses through massive foreign investment. A law in the mold of the Foreign Corrupt Practices Act that prohibits U.S. persons from facilitating serious human rights abuses could be a game changer. Any such law must also permit private actions against offenders, allowing much of the enforcement effort to be undertaken by private plaintiffs and holding companies accountable for what they're doing in Hong Kong and China.

I'm out of time and I'll stop there. Thank you for your attention.

Chair MERKLEY. Thank you very much, Mr. Bickett, for sharing your experience as a human rights lawyer, but also as just an individual who intervened to assist somebody who was being beaten up, and then saw the entire episode changed, in kind of a Kafkaesque fashion, such that you became the criminal rather than the savior, and not just suffered time in prison but under a form of freezing air torture, if you will. We appreciate that you're here now, able to share your experiences freely, and to suggest ways that the U.S. can be more aggressive.

We're going to turn to our periods of questioning now, seven minutes. I'll ask each person to try to confine themselves to that time commitment. To our witnesses, try to be fairly crisp in your responses so we can get through as many questions as possible.

I'll start with Ms. Wong. What you described in Hong Kong bears close resemblance to what we know about mainland China. Officials tolerating some social welfare organizations, as long as they strictly self-censor themselves, while treating those advocating for citizens' participation in governance much more harshly, leaving little space for human rights lawyers, or independent journalists, or women's or LGBTQ rights organizations, or labor organizers, or religious organizations, not to mention foreign NGOs.

Is this how you see things? That the control of civil society in Hong Kong now closely resembles what we have seen in mainland China?

Ms. WONG. Yes. We see in all their strategy suppression of the NGOs in China, and now it's happening in Hong Kong.

Chair MERKLEY. Thank you. You're in exile. How do Hong Kongers in exile preserve the spirit of Hong Kong and work to rebuild civil society abroad? Is it really possible to benefit those who are still in Hong Kong?

Ms. WONG. We live in exile, working very hard to keep our spirit and form different NGOs of different natures, different services. We really want to tell our friends still in Hong Kong that we never forget them. We are working hard, whether it's international lobbying or just doing some concrete work for Hong Kongers who are in need in other countries. This is what we can do. Of course, we don't think that we can really affect the current situation in Hong Kong, but we do hope that because of our lobbying, our advocacy, that international communities will help to resolve or improve the situation in Hong Kong.

Chair MERKLEY. Thank you.

Mr. Bickett, let me turn to you. I think it was often thought that China would restrain itself in regard to Hong Kong, in part be-

cause it had made this agreement when Hong Kong was turned over, of two systems within one country, in part because of the implications for Taiwan, and in part because of the implications for the business community and the concern that they might destroy the golden egg. And yet the golden egg hasn't been destroyed by their actions. You do suggest in your testimony that the business community has been put in a situation where they had previously relied on transparency and independence of the legal system, but the legal system is completely corrupted now.

What have we seen as the reaction of the business community? And is the business community proceeding forward, maintaining its presence in Hong Kong, more or less accommodating itself to the National Security Law?

Mr. BICKETT. I think we're seeing a number of different attitudes. Overall, I think I would say that the business community, especially the foreign business community, is not as concerned as they should be about what's happening in Hong Kong. I think a lot of businesses are somewhat deluding themselves that the breakdown of the rule of law and of the court system will only apply to political individuals, locals, things like that. Obviously, my case raises questions about that, but there are other issues that have come up that I think suggest that that's simply not the case.

One only needs to look over the border into China to see why. Does any foreign company operating in China really think that if they have a dispute with, say, China Construction Bank, that they're going to have any chance of winning that dispute in China, no matter what the situation is? Does any company think that if they have intellectual property that they want to protect and have a legal right to protect in China, that they're going to be able to do so? No. I can't imagine any reason why that would be different in Hong Kong, now that China's decided to do what it's doing to Hong Kong.

Beyond that, I think companies are playing a little fast and loose with their own employees. Companies are telling their employees: Don't worry. Go over there. It's safe. You can be an expat in Hong Kong. You can live up on Victoria Peak and nobody will ever notice you. I think my case shows why that's simply not the case. Companies really need to ask themselves, is it really worth the business that they're doing in Hong Kong and in China to be putting their employees at risk, to be putting their business at risk? It's going to continue to clamp down on people, and there are going to be arbitrary arrests of Americans and of others for political reasons or otherwise.

Chair MERKLEY. Thank you very much.

Mr. Bickett and Mr. Ching, in your testimony you both call for the United States to provide special immigration pathways for Hong Kongers. This has been a major priority for members of this Commission. What message does it send if we welcome to our shores those fleeing persecution? And what message does it send if we fail to welcome to our shores those who are fleeing persecution? Either of you feel free to jump in.

Mr. BICKETT. I can go first. Look, I think all of us on this panel have a lot of friends in Hong Kong, and know a lot of people who are trying to leave. This is noticed, right? What's happening in the

U.S. domestically or with foreign policy, it's noticed by those abroad. What happened in the 2020 election is noticed by those abroad. And what's happening with the United Kingdom, with Australia, with Canada, welcoming Hong Kong refugees with open arms, people notice it and people talk about it. When people talk about where they're going to go, they tell us that they don't feel welcome in the United States.

I think that, frankly, there are a lot of people in our leadership who don't want to welcome them, and I think that's really unfortunate. Hong Kongers are ideal immigrants who would come here and make an incredible contribution. I really hope that the provisions, particularly in the America COMPETES Act, can be included in the final version of the bill that gets passed by Congress.

Chair MERKLEY. Mr. Ching, did you wish to comment? Then I'll turn this over to my co-chair.

Mr. CHING. I agree with Samuel. American society has been regarded as the beacon of freedom and democracy and yet when Hong Kong was in its worst days, there was not sufficient support for a channel for people coming to the U.S. I understand that applying for political asylum takes a long, long time. For example, in my case I've been waiting for two years without getting an interview. This kind of attitude is quite discouraging to those who try to seek refuge in the U.S., which was considered as the beacon of freedom by people around the world. I think there should be better access for those who want to come to the U.S., to have this chance.

Chair MERKLEY. Thank you.

I'm going to turn this over to Co-chair McGovern. When it comes back to my second round, I want to clarify what you pointed out there, that you've been applying for two years to be able to come to the United States and that your application has not been granted. Thank you.

Co-chair McGovern.

Co-chair MCGOVERN. Thank you.

Each of you has testified in support of imposing additional sanctions on Hong Kong officials. In 2020, then-Chief Executive Carrie Lam famously said that she keeps piles of cash at home because she has no bank account after U.S. sanctions landed on her. So two years later, have officials had time to adjust, and can you assess the effectiveness of further sanctions, both materially and symbolically? I'd ask everybody for a brief answer. Mr. Bickett, why don't we begin with you?

Mr. BICKETT. I have a couple of points on the sanctions issue. In my past life I was a sanctions lawyer in the corporate context as well. You know, sanctions are a mixed bag. I have, sort of, some reluctance on sanctions and how they're used. In particular, if you look at something like the Carrie Lam sanctions, they're great in the sense that they send a message, they encourage Hong Kongers, and they make a difference. It's also hilarious, the image of her having cash in her house. I think it makes Hong Kongers very happy to know that, but it doesn't deter anyone. Individual sanctions against a leader don't deter anyone, and that's why my testimony focused on civil servants.

If you start sanctioning a group of civil servants at a lower level, prosecutors who have prosecuted particularly egregious cases, po-

lice officers who have been responsible for torture, or things like that in the mid-level, then people lower in the ranks start to realize, hey, you know, this isn't just going to be Carrie Lam and her cash house. This is going to be us, potentially. Those are the people who are not going to go out and say, I quit, and leave the service, but they're going to potentially quietly start restraining themselves a little bit, and there is an urgency since a lot of these cases are still going through the system. Once they've all gone through the system, there's going to be little deterrent effect. It's all going to be done. So that's something that I would encourage Congress to do very quickly.

As for whether there's been time to adjust, that's absolutely true. You know, we don't get the details, but I would assume that by this point Carrie Lam and John Lee and these people who have been sanctioned have been able to get a bank account through a Chinese bank. That's sort of the double-edged sword of sanctions. The more the United States uses them, the more our adversaries adjust and find ways to get around them and set up mechanisms to do so. With that said, Carrie Lam will never be able to travel to the United States. She probably, despite them not issuing sanctions, won't be able to get a ticket to go to the U.K. or to Europe.

These things matter. They matter to Carrie Lam who, despite everything that she says, absolutely loves the West and doesn't want to spend the rest of her days in China, and they certainly would matter to civil servants who might have money, family, and just simple travel plans abroad.

Co-chair MCGOVERN. Mr. Ching.

MR. CHING. I think sanctions have symbolic value, sending a strong message to those who want to implement Beijing's draconian law. I think the sanctions should go right to the top. Not just the middle-level officials. In my mind, I think Xi Jinping himself could be personally held accountable for all the atrocities he committed in Hong Kong. In 2008 he came to Hong Kong and said that the power system in Hong Kong, the state powers—executive, judicial, and legislative—should cooperate with each other. Here is the man who first violated the Basic Law commitment to Hong Kong, and I think if any sanction is going to be effective, it should be directed at the number-one man who brought about all these problems in Hong Kong. If you simply sanction Carrie Lam or John Lee, it won't be as effective. If the American Government is adamant about punishing the CCP, sanctions efforts should be directed at Xi Jinping.

Co-chair MCGOVERN. Thank you.

Ms. Wong.

Ms. WONG. I agree that sanctions to individual officers, either number one or Hong Kong top officials, would have very important symbolic meaning, even though maybe they get just another way to have, you know, the Bank of China. As far as other Hong Kong officials are concerned, they don't have any so-called mission, or whatever. What they have is personal interest. Certainly, if the sanctions go personal, that would be more effective. At least it would make them have second thoughts about it, so I will agree with Mr. Ching.

Co-chair MCGOVERN. Yes.

Mr. Poon.

Mr. POON. Yes, I certainly agree with all of them. I think as far as the sanctions, if they could be targeted on the top and also the medium level, that actually would send a very clear message to government officials that they would not be spared if they continue their human rights violations. Then I think that for further sanctions, they should influence businesses also because as I argued earlier, we shouldn't make businesses feel that they can do business as usual.

Also, for some of the family members of senior officials—Carrie Lam's family is still living overseas without any consequences. I mean, I'm not saying they should be punished, but when so many young protesters in Hong Kong tried so hard to flee Hong Kong, but there's actually not enough ways for them to flee Hong Kong, but they can see Carrie Lam's family can still really lead a good life overseas, it's actually quite ironic. I mean, if we want to have something more useful, it should be very, very strong sanctions conditions and shouldn't just be restricted to a very few conditions. Thank you.

Co-chair MCGOVERN. Thank you. I'm out of time. I unfortunately have to go to another hearing, but at some point further on as you're answering questions, one of the things that I think would be important for us to hear is whether or not you think that our current administration here in Washington, or Congress, whether or not there is an impression that we are taking matters in Hong Kong seriously enough, whether or not we are responding in a way that people think we should. My guess is that you don't and so that's why these recommendations and this conversation is important, to figure out what we can do next and what we can do more, because what is happening in Hong Kong is unconscionable, and some of the people that the chairman and I mentioned and Mr. Smith mentioned, these are people we not only know but they're our friends. They're good people who are in jail for no good reason. It really is quite shocking and unconscionable. I thank you all and I yield back. Thank you.

Chair MERKLEY. Thank you very much, Co-chair McGovern.

Let's turn to Congressman Smith.

Representative SMITH. Thank you very much, Mr. Chairman. I want to thank our distinguished witnesses for their very sobering testimony, which I think makes very clear that we are not doing enough, and that goes for Congress. It goes for the President. It goes for other world leaders. We would like to comment further on that.

You know, we are living in a time when Xi Jinping is directly responsible for genocide against the Uyghurs, and other people in that region of the world, in Xinjiang, and when he continues to bitterly oppress the Tibetan people, when he commits gross violations of human rights across the entirety of China, with the prevalence and the pervasive use of such things as torture, the theft of people's organs simply because the Chinese Communist Party wants to make money. Well, Xi Jinping is directly responsible for all of that and the ongoing oppression of the people of Hong Kong.

I'm just wondering why you think we are not doing more. Is it empathy fatigue? Is it that people in the West, while they were

originally outraged over certain behaviors, began to accommodate and then actually enable, however unwittingly? I don't think we do enough, and I would appreciate your thoughts on that. When, Ms. Wong, you said that civil society is dead, that is horrible. That is heartbreaking because these are the people, as you pointed out, your friends—and our friends too—but your friends at a very, very personal level.

Please know how much all of us feel for you and for your fellow Hong Kongers who have fought so hard and see nothing but Xi Jinping's oppression in the future, unless the world rallies in a very significant way. I mean, the sanctions we've done have been a slap on the wrist. That's all it is. It's not much more, and it needs to significantly expand. I would appreciate any thoughts all of you might have on that.

Mr. Bickett, thank you for your testimony. Which U.S. companies do continue to enable? I have found—and I'm one of those who, going back to when MFN status was delinked from human rights, on May 26, 1994, by President Clinton, in my humble opinion that's when we largely lost China, with that delinkage, and sadly, we haven't been able to get it back. It seems to me that the companies are the glue that helps this dictatorship stay wedded to profits and power, and maybe you might want to speak again to specific companies and industries that are acting in a way that is totally self-interested and not interested in the people of Hong Kong.

If you would address in your answers the social credit system, which is applied throughout China; obviously, many of the businesses are both in mainland China and in Hong Kong, while it would appear it's not directly imposed upon Hong Kongers, this idea of surveilling every Chinese citizen and business with the use of data to monitor, shape, and rate financial, social, religious, or political behaviors, it is the worst manifestation of the surveillance state the world has ever known. I'm wondering how that applies currently in Hong Kong, especially with this escalating influence, almost total dominance, by Xi Jinping on China.

Finally, in May of last year the State Administration of Religious Affairs, or SARA, issued new regulations entitled the Administrative Measures for Religious Clergy. It forces all clergy to pledge allegiance to the Chinese Communist Party. Article 3 of the regulations states, "religious clergy should love the motherland, support the leadership of the Chinese Communist Party, support the socialist system, and adhere to the direction of centralization of religion in China."

This is an invasive usurpation of religious freedom, and we have already seen its deadly effects in places like Tibet and elsewhere. I'm wondering, is any of this being applied, and to what extent, in Hong Kong? The Basic Law, obviously, was supposed to convey fundamental religious freedom. Sinicization means simply all religions must comport with the principles of Xi Jinping and Chinese Communist ideology. If you could speak to that I would appreciate it as well. I yield to our witnesses, beginning with Mr. Bickett, if you could.

Mr. BICKETT. Sure. I'll try to go through those, maybe not in that order. Starting with the last one, the most notable, as you mentioned earlier, clampdown on religion is the arrest of Cardinal Zen,

who was really just doing his duty as a religious figure and was arrested for that. What I think may have not gotten seen as closely in the news with that is that the Vatican actually just threw him under the bus. I think it was the secretary of state in the Vatican, the cardinal there, who outright said to the media: Well, we just hope that this doesn't affect our upcoming renewal of an agreement with China to allow cardinals in the country. You know, I'm not a Catholic, but that's certainly not the Christ I know and the Christianity that I practice. I just can't imagine them throwing the cardinal under the bus for that.

Let me go back to the question that was specifically directed to me, which is about particular businesses. There are a lot. I think what I'll highlight is the financial industry. Banks are a little bit more subject to public pressure in the sense that a lot of them have public accounts in the U.S., and things like that. Private equity and funds are I think the biggest offenders here. There's a great report that came out from Hong Kong Watch a couple of weeks ago that specifically addressed these issues with respect to BlackRock, Blackstone, and some of these major investors into China. Another one that I'll point out here is venture capital—Sequoia Capital—the head of their China business is a high-ranking official in China, and their investments show it.

Some of these private equity and venture capital firms, they'll release happy press releases talking about their new investment into Chinese surveillance companies and how it's helped that company grow. These are American companies. I don't know for sure, but I think a big difference with these companies versus, say, just a typical—The Gap, is that The Gap worries about boycotts in the United States from regular people. The Gap worries about how their image will look across the world. Blackstone, KKR, far less so, simply because I think they're very complex firms and most people don't understand what they're doing. They simply don't get that much blowback for it. And I think that needs to change.

I'll leave the other questions to other people. I know that we're running over time.

Representative SMITH. Ms. Wong.

Ms. WONG. Sorry, I have no knowledge about the business sector.

Representative SMITH. Are world leaders, including President Biden, doing enough in raising the issue of Hong Kong, and looking to do perhaps—which I think are needed—additional sanctions? Especially against Xi Jinping?

Ms. WONG. No, not at all, so sorry to say that, because I think that the U.S should really, really defend democracy—because now I think it's so important, human rights and democracy—against authoritarianism. I think there should be concrete action, not just empty promises. I mean, concrete action really to defend democracy the world over. Hong Kong's a good case where you have a political decision to defend democracy, is what I want to say.

Representative SMITH. Thank you.

Mr. BICKETT. If I can just pile on on sanctions. As I've said, I think sanctions are important—Xi Jinping or anything else. Xi Jinping is not personally going to be affected by American sanctions. Let's be clear about that. It's symbolic. It would be nice.

Representative SMITH. What about—and I agree with you to a large extent—but what about if he were to be singled out? I mean, you talk about committing genocide in plain view, and of course the oppression of the people of Hong Kong is an egregious human rights abuse. Where is the International Criminal Court and like-minded bodies? I mean, they're never held accountable. People like Charles Taylor and Slobodan Milošević?, we wait until they're out of power or the world community finally wakes up, long after the bloodletting and the abuse is finished. This is in real time, as we meet. I mean, it's worth an effort, I would think, to hold him liable before——

Chair MERKLEY. Congressman, after the response to this question we're going to be turning to Senator Ossoff.

Mr. BICKETT [continuing.]. The International Criminal Court (ICC); I think everyone in this hearing would probably agree that it has very, very limited powers, and in particular it has no enforcement mechanism. Where you see ICC or international prosecutions, it's because the governments have turned the people over. With that said, I agree with you that there's something to be said for if not Xi Jinping, investigations into, in particular, the genocide in Xinjiang, the activities in Hong Kong, etc., and Tibet as well.

I think the point I always try to emphasize on sanctions is that I worry in the U.S. Congress and the Presidency that sanctions often are used as an easy way to say we're doing something and then issue a few sanctions on individuals who it might affect a little, without changing any policy abroad, and then packing up and going home. I mean, that's in particular why I focused in my introduction on something like a Foreign Corrupt Practices Act-like law that would actually target American companies behaving badly, because that's what we have the most influence over. Yes, sanctions, issue them, but it can't be all that we do. It simply—at the end of the day, it does not do enough by any stretch to further American policy abroad.

Chair MERKLEY. Thank you.

Senator Ossoff.

Senator OSSOFF. Thank you, Mr. Chairman. Mr. Chairman, I'd ask consent to enter into the record the names of 13 journalists or defenders of press freedom who are currently under arrest, in detention, or incarcerated in Hong Kong.

Chair MERKLEY. Without objection.

Senator OSSOFF. Thank you, Mr. Chairman. As you know, prior to my election to the Senate I worked in the production of investigative journalism, investigating war crimes, official corruption, human rights abuses. Mr. Ching, I'd like to ask you for a detailed update on how, since the imposition of the National Security Law on Hong Kong, the CCP's efforts to dismantle press freedom and freedom of expression are continuing.

Mr. CHING. OK. First of all, the chilling effect of the closing down of Apple Daily is really very, very alarming. The Foreign Correspondents Club (FCC), for example, has run this Human Rights Press Award for over 26 or 25 years. After going through all this process of selecting the awardees, the FCC suddenly announced that they were going to suspend it, citing the National Security Law, which imposed an elusive red line. Now this is a very big

blow to press freedom in Hong Kong because the FCC has been promoting itself as one of the vanguards of press freedom and yet succumbed to the pressure of the National Security Law.

Following the action of the FCC, a number of other press organizations also chose to shut down. For example, the Hong Kong Journalists Association the other day passed a resolution to lower the threshold for self-dissolution. Why? Because it anticipated pressure from the authorities to close it down. Instead of being forced to close down, they chose to try to dissolve voluntarily. Although they have a very high bar for this self-dissolution, they convened an annual general meeting to lower the bar, lower the threshold for self-dissolution. Unfortunately, the one that I have founded, the Independent Commentators Association, chose to wind down silently, voluntarily.

The chilling effect is so strong that I think it will have a big impact on journalism in Hong Kong. Keith Richburg, the president of FCC, he is also teaching at the Journalism and Media Studies Centre (JMSC) in Hong Kong U, which is a very renowned education outlet for journalism. He told his students to be careful and to be smart in avoiding the red line. If this kind of mentality is taught, passed on to future generations of journalists, then I don't think Hong Kong will be able to maintain a press freedom environment anymore. I think the chilling effect of being shut down, the way Apple Daily and Stand News were shut down, were quite serious in intimidating the entire profession.

Senator OSSOFF. Thank you, Mr. Ching. With my remaining time, can you comment, if you have any knowledge or experience, on how the CCP is seeking to influence or intimidate or coerce or shape reporting, publication, and journalism pertaining to Hong Kong, even by reporters, writers and publications who are beyond Hong Kong's borders, or beyond the PRC's borders? How do they engage in such efforts internationally?

Mr. CHING. Well, the most common tactic is this united front strategy. They'll try to get close to you, even if you are far away from Chinese judicial territory. They will try to get someone close to you, try to persuade you that China is not that bad. Maybe you are misguided by misinformation from the West, and things like that. They try to befriend you and try to get your trust, and then by and by, they will tell you what you should report and what you should avoid. For journalists outside of China, they don't have this long arm yet, but they will try to have colleagues conducting this kind of united front strategy on you.

Senator OSSOFF. Thank you, Mr. Ching. Thank you, Mr. Chairman. I yield back.

Chair MERKLEY. Thank you very much, Senator Ossoff.

I want to go back to Mr. Ching. You're operating now from Los Angeles, but you mentioned that you've been applying for some form of immigration status for a couple years without it coming through. Can you expand on that story a bit, to give us some insight?

Mr. CHING. Yes. I came to the U.S. for a conference, but because of COVID-19, all the flights back to Hong Kong were suspended and I had to wait for reassignment ever since. Finally the National Security Law comes in, and looking at the law itself, I understood

that I had no hope of returning home safely, so I applied for political asylum in the States. That was two years ago. I didn't even get a chance to interview, and I wonder if it's because of this: some senators have pointed out that the U.S. might not be very receptive to political refugees from Hong Kong. Maybe this is the reason, and I hope therefore that you can map out a way to expedite political refugees who want to come to the U.S.

Chair MERKLEY. So even in a situation where you're at extraordinary risk should you return to Hong Kong, because of your commentaries and your writings, the asylum process has just essentially been frozen?

Mr. CHING. Sorry?

Chair MERKLEY. The asylum process for you—for consideration of your application for asylum—has essentially been dysfunctional or frozen?

Mr. CHING. I don't know. I don't know what happened.

Chair MERKLEY. OK. Well, thank you. I do think that the fact that our door has not been open to champions of human rights and free speech and free assembly who are being oppressed through the National Security Law is of great concern to me.

I did want to turn to you, Mr. Bickett. You had the experience of being detained and subjected to extensive—I guess, being trapped in a room at 35 degrees. From your knowledge of the prisons in Hong Kong, is this the only technique? What other techniques are used to make people suffer, if you will? I've heard references that the biggest fear is being deported to China. If that is correct, could you expand a little bit on that; that is, on being deported to mainland China from Hong Kong.

Mr. BICKETT. Sure, and if I could just add on, on your previous question on asylum. One of the big reasons why—most of the activists that you sometimes see roaming these halls trying to bug senators about things in particular, is that many of the Hong Kong activists are applying for asylum right now. One of the big reasons why it's just a wholly inadequate solution for Hong Kong and Chinese immigrants is that once you file that application, all of these people are effectively cut off from their lives in Hong Kong. If you apply for asylum, it certainly puts you on a political list. It puts your family on political lists. They can't really communicate with their families anymore to keep them safe; whereas if there were just a normal mechanism for them to come to this country, we'd be less likely to draw that attention. They're also heavily restricted from traveling, so that's a particular issue for many of the activists, who need to go to conferences, who need to go try to raise awareness about China and Hong Kong. There is a process where they can apply to Customs and Immigration for leave to travel abroad, but it's usually either denied or delayed greatly. so it's just really an inadequate solution for people.

On your other question about treatment in custody, when I was put in the freezing room, this is a very common thing that the police do—not the prisons necessarily, but the police when you're in custody. There was somebody who died from it a few months ago, and it really came out how many people were really going through this. I think it's a way for them to not leave marks on people but to enhance interrogation or torture, whatever you want to call it.

It's pretty widespread. There are beatings that people have reported and violence from police. You don't hear that in as much of a widespread way as you do the freezing room and other things that don't leave a mark.

In the prisons themselves most correctional services officers are relatively mild, particularly at the junior levels. My impression is that—I should qualify this with the fact that because of who I was, because of my high profile and because of my foreign passport, I was clearly kept away from certain things. You did see police—or you did see prison officials—beating people sometimes. You saw them punishing people in ways they shouldn't have. It was rarely related to politics. It was more related to, this person is annoying me.

Where we see more systematic abuse of prisoners—high-profile political prisoners—in the prison system is directed by senior officials. In particular, you have someone like Jimmy Lai, who's been talked about a lot today, from Apple Daily, who is kept isolated from the entire prison population, supposedly for his own protection but really as a way to make him suffer. He is supposed to be allowed out for an hour a day for exercise. That may happen or it may not, but otherwise, he's just sitting in a room and isn't allowed to really interact. No interaction with people, that's truly torture. I can't imagine. He's not the only one. That happens to a lot of other high-profile political prisoners. They use a mechanism in their own regulations that supposedly allows them to remove people for protection reasons and then they just extend it and extend it for years.

Chair MERKLEY. Can you address the fear folks have of being deported to China and possibly being cut off from all contact with individuals——

Mr. BICKETT. Yes. I think that this is a fear for some of the high-profile people. People thought it was going to happen to Jimmy Lai for quite some time. There were some leaks coming out of the judiciary. Jimmy Lai's case, up to the Court of Final Appeal (CFA), which is effectively the supreme court, was the first test of how the CFA was going to deal with the National Security Law. They ruled against Jimmy Lai and basically ruled that he should be held indefinitely without trial, before trial. There were leaks that came out that effectively this may have been because the court realized if they didn't do that, that Jimmy Lai and all of these others would be sent to China.

I don't say that to defend this court, which has been, you know, absolutely cowardly in how it's dealt with these issues, but it shows that in most aspects of society there is always that present threat; the simple threat of being sent to China makes prisoners act differently, makes civil society act differently. Fermi can speak to that as well. It is a huge fear for Hong Kongers.

Chair MERKLEY. Thank you. I want to turn to Mr. Poon and Ms. Wong. One of the threats I often hear about is a concern about retaliation against family members who are still in Hong Kong or in China. Can either of you shed any light on this risk? Have you had any experiences in which your own extended family, friends, associates in Hong Kong or China have been pressured in various ways because of your courage to speak out?

Mr. POON. What I have been hearing from many of my friends who are living in the U.K.—I was in the U.K. in the past year before coming to Japan. Many people who used to work in or still work in the NGO sector, they don't really want to talk. That's why I am not among those who have always been talking publicly, but now you can see that I need to talk about the situation publicly because all the more famous ones feel a lot of pressure, and they really are fearing that they would be facing a lot of threats and danger.

I think because of the atmosphere, people would feel that they would not want to take the risk, and they also see the example of Ted Hui, for instance, where you see the kind of pressure and also his bank accounts being frozen, etc. and also his being charged, even though he's already outside of Hong Kong. From these examples, it actually also makes others feel very, very threatened if they want to talk in public, even those who used to be very famous and very outspoken when they were in Hong Kong. I can feel the immediate threat they feel and then also the worry among them.

Chair MERKLEY. Ms. Wong.

Ms. WONG. For myself, yes, I've been struggling. You can tell that they are not calling for sanctions to particular persons, because my family are still in Hong Kong. If anything happens to me, I'm prepared to cut off my relationship with my family, but I know that may not help. The NGO I founded has a board of directors; I worry because they're still serving ethnic minorities. My society is the first one and the only one that does advocacy for ethnic minorities, so yes, I have fear.

In fact, even though some of my friends asked me to attend the UN hearing just as before, I worried that it would do harm to my board of directors in Hong Kong and my family, so I did not go. Someone has to state what has been happening in Hong Kong and really call on the international community to do something, for example, the USA.

Chair MERKLEY. Well, thank you all. I keep having more questions come to mind based on your testimony and the situation, but we're out of time and there's a vote underway that will be closing, so I'm going to have to wrap this up. But it's not the end of the dialogue because the Commission is working every single day with an extraordinary team to shed light on these issues in Hong Kong and in China and China's oppression of the rights of people in so many different ways.

I really appreciate Mr. Poon, Ms. Wong, Mr. Ching, Mr. Bickett, your courage, your testimony, your outspoken and continuing work on behalf of freedom of speech, freedom of assembly, and freedom of religion, and democratic processes so that there is government by and for the people. We have seen that extinguished in an extraordinarily dramatic fashion in Hong Kong in an incredibly short period of time, in complete violation of the commitments that China has made. We need to find every conceivable way to respond and to resist, and I appreciate the recommendations that you've put forward at this hearing.

The record will remain open until the close of business on Friday, July 15 for any items members would like to submit for the record or for any additional questions for our witnesses. Again, thank you

to every champion of human rights, of democracy, of opportunity, and of freedom. This hearing is adjourned.

[Whereupon, at 11:47 a.m., the hearing was concluded.]

A P P E N D I X

PREPARED STATEMENTS

PREPARED STATEMENT OF PATRICK POON

I would like to thank the CECC and this distinguished audience for giving me this opportunity to share my experience and my view on the situation of the civil society in Hong Kong. I will focus on the drastic change of civil society space from the time I changed my job as a journalist to become an NGO worker with local and international NGOs since the early 2000s to the era of "red net", as I would describe, after the National Security Law was imposed on Hong Kong by the Chinese authorities. Red line is simply not enough to describe the scope. The Hong Kong and Chinese governments wouldn't even make it clear about where the red line is so that they can arbitrarily restrict Hong Kong people's freedoms. The message is clear—you can only survive if you don't challenge the government.

When I started my NGO career focusing on supporting workers, writers and lawyers in mainland China, the civil society was very vibrant. We could organize all kinds of activities, ranging from staging demonstrations to call for release of detained dissidents in China to arranging writers and lawyers to meet with their counterparts in Hong Kong. We never experienced any interference or felt any threats. Even when I was an Amnesty researcher, I wouldn't fear too much for my personal risk when I commented on the detention of Chinese dissents or when I worked on documenting Uyghur and Kazakh cases in relation to the political re-education camps. I still remember how a mainland Chinese writer once exclaimed when he arrived in Hong Kong and I met him at the train station: "I could finally breathe the air of freedom." It was a time when many young university graduates in Hong Kong would be willing to get a relatively low salary to work on issues that we believed we could do something to help our friends in China.

During that time, I was able to communicate with many high-profile mainland Chinese dissidents without fear. Late Nobel Peace Prize laureate Liu Xiaobo had so much hope for Hong Kong's support that he contacted me and several others in Hong Kong in late 2008 to invite prominent pro-democracy figures in Hong Kong to co-sign the "Charter 08". Many of those democratic figures, some of them now in prison, and myself were among the first batch of co-signatories. We didn't need to think much when we decided to co-sign it. These experiences led me to continue my work in international NGOs like Amnesty as I believed that it is significant to push China to comply with its international obligations. It was unimaginable at that time that Hong Kong's freedom of expression and freedom of assembly would bea completely gone. Even prayer meetings or a mass to commemorate the victims of the Tiananmen Massacre are now deemed too sensitive.

For NGOs in Hong Kong, we used to feel secure to co-organize talks on human rights issues in China and Hong Kong, no matter public or closed-door, with universities in Hong Kong. We didn't need to worry too much about our personal safety compared with activists in China. But now, everyone needs to have a second thought or self-censor the content of the events before planning such activities. We used to be able to organize public talks by inviting human rights lawyers from China to share their experiences to the general public. Now, it's just unimaginable how similar activities could be done anymore in Hong Kong.

We used to be able to hold public rallies, from small-scale demonstrations outside China's Central Government Liaison Office calling for the release of detained Chinese dissidents to mass rallies calling for universal suffrage in Hong Kong, without any interference. Police officers at that time were friendly and would even engage in discussing the route with the organizers. The police made it very clear to us that we didn't need to get their permission to hold any rallies. We only needed to inform them, and they would routinely issue a "letter of no-objection", only formalities, despite a Public Order Ordinance (that has been repeatedly criticized by UN human rights experts as restrictive of freedom of assembly). Sometimes, the police would just call us to confirm that we would be organizing a demonstration if we forgot to inform them in advance. However, after the anti-extradition bill protests in 2019

and the imposition of the NSL in 2020, the situation has completely changed. Anybody appearing in places like the Victoria Park, where the annual candlelight vigil to commemorate the Tiananmen Massacre used to take place, on 4 June would be questioned by the police and warned that they would be charged with "illegal assembly" if they stay there. Like many Hongkongers, I honestly didn't believe that unionist Lee Cheuk-yan, solicitor and former legislator Albert Ho and barrister Chow Hang-tung, leaders of the now disbanded Hong Kong Alliance in Support of Patriotic Democratic Movements of China which organized the annual candlelight vigil, would be accused of "inciting an unauthorized assembly" for an assembly that had been allowed for over 30 years. They are now even facing the same notorious charge of "inciting subversion of state power" like many Chinese activists.

Finally, I would also like to share a bit about experience as a former court reporter as I'm puzzled how difficult it is to cover court news in Hong Kong nowadays. I covered quite a lot of trials about protesters being accused of "obstruction in public place" for staging small-scale protests that occupied some space, such as outside China's Central Government Liaison Office. Those were already the big news in those days. The sentences the protesters faced were about a few weeks. Granting bail was considered normal and I never heard any judge at that time would say that they didn't trust that the defendants would commit the said offence during bail. Presumption of innocence was well observed. Reporters wouldn't feel any restrictions on reporting anything in open trials, except for knowing the fact that we shouldn't disclose the facts for cases that would be committed to be tried at the High Court. Now, everything has changed. Even reporting details about bail application is banned by the courts in Hong Kong. Judges rarely consider public interest when they make judgements.

I appreciate that there have been some efforts to pressure the Hong Kong and Chinese governments. However, the situation won't change until the Hong Kong and Chinese governments can see the real consequences. We shouldn't give them the impression of business as usual as they are cracking down on our civil society.

While various governments have issued statements expressing concern about the erosion of human rights in Hong Kong, it's difficult to see any real impact as the Chinese and Hong Kong governments have realized that they can continue doing business despite severe criticism of human rights records.

Authoritarian regimes like China and their supporters have learned that they can divert attention of all criticism on human rights by pointing out that there are also serious human rights violations in democratic countries. However, check and balance is what democracies should emphasize as different from tyrannies. Democratic governments should make the business community realize that there is real consequence for colluding with dictatorship.

Combining the effort of pushing China and Hong Kong governments to comply with the international human rights standards and economic sanctions on senior officials would be the most effective and mutually beneficial way to ensure accountability, otherwise democracies will eventually succumb to authoritarian propaganda, which nobody would want to see.

Therefore, I would urge the U.S. government to impose further sanctions on all senior Hong Kong and Chinese officials.

Thank you.

PREPARED STATEMENT OF FERMI WONG

Dear Chair, Co-chair, and other Commissioners,

Thank you so much for holding this hearing. I spent my entire adult life working in the civil society to fight for equality for ethnic minorities. The dismantling of the civil society under the National Security Law has completely destroyed the hard gains that took us decades to achieve.

I was born in China and spent my childhood there. It was in Hong Kong that I experienced awakening to the universal values of equality, social justice, and individual rights. I learned that we could take legal actions to defend our rights.

HONG KONG AS A CITY OF PROTEST

Hong Kong used to be the capital of protests for good reasons.

First, the government was not democratic and not very responsive. Indeed, the formulation of government policy was very bad. Only when issues were taken to the streets that officials might respond.

Second, the independent media did a great job at supervising and putting pressure on the government. They were helpful in amplifying collective wishes shown in public protests.

Third, Hong Kongers had high awareness of their freedom of assembly and speech. They used protests to defend their individual rights.

Fourth, there was a gap between rights promised and rights delivered. The Basic Law Art. 39 provides for human rights protections as guaranteed by Hong Kong's Bill of Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. There is also the Equal Opportunities Law. Long Hair (Leung Kwok Hung, former lawmaker) was very skilled at using judicial review to fight for rights when the government did not do what was provided for in the law.

The National Security Law has taken away all these rights.

EQUALITY FOR MINORITIES

I founded Unison because I discovered that Hong Kong had equality written in the laws but in fact practiced discrimination against ethnic minorities, especially those of South Asian origins.

Access to education is the most important pathway to overcoming inequalities. Hong Kong was supposed to have a nine-year free education policy. However, Hong Kong schools discriminated against South Asians and denied them equal access. I realized that this discrimination was invisible to the broader society. So I dedicated myself to putting equality on the agenda. I formed my own organization and took social actions such as rallies, assemblies, and petitions. The team gradually achieved equal access to not just the basic nine years of education (equivalent to Grade 9), but all the way to university admissions. Our team moved on to fight for equal access to job opportunities at various branches of the civil service.

Let me explain how important the broader civil society was in helping to achieve these gains and how disastrous the National Security Law crackdown has been on even a seemingly non-political issue as equality for minorities.

When I first read the National Security Law, I thought that the crimes of "secession," "sedition," "terrorism," and "collusion" with foreign forces should be of no concern to my work. Then I noticed that the National Security Law instructs the Hong Kong government to "strengthen propaganda, guidance, supervision, and administration" over "schools, social groups, media, and the internet." Soon I realized that the National Security Law means a total crackdown on the civil society.

As the cause of minority rights is deeply embedded with the civil society, the very recipe of our team's success has completely collapsed.

In Hong Kong, many non-governmental organizations, especially those involved in providing social services, are dependent on government funding and thus refrain from criticizing government policies. Civic groups that championed political, social and economic justice, however, raised funding from the public to maintain their autonomy from the government. This then required that they mobilize popular support and raise public awareness by joining forces with protest-related umbrella organizations, in particular, the Civil Human Rights Front, the Professional Teachers' Union, and the Confederation of Trade Unions, all of which have been forced to disband.

I joined the Civil Human Rights Front's human rights group when I needed to mobilize support from different social sectors to support legislation against discrimination. Now the Front is gone and there is no more freedom of assembly.

I worked with the Professional Teachers' Union to achieve equal access to education. The union not just helped to promote our cause, but also provided training for teachers involved in education for minorities where language issues were relevant. The union's chair was also routinely elected to represent the education sector in the Legislative Council. These supportive legislators helped push through anti-discrimination legislation and keep the issue under the spotlight. Now the union is gone. The legislature has been revamped so that the seat is occupied by the vice chair of the pro-Beijing Hong Kong Federation of Education Workers.

I also cooperated closely with the Confederation of Trade Unions. Ethnic minorities are discriminated against in jobs. Many are working class laborers and are treated poorly by both supervisors and coworkers. To fight for their labor rights, Pakistanis and Nepalese set up a member union under the Confederation. Even the civil service used to deny minorities job opportunities. They used the excuse that minorities didn't know Chinese. I shamed the government that if they retained British officers who didn't speak Chinese, why did they apply a different standard to South Asians? Lee Cheuk Yan, when he was a legislator representing the labor sector, helped to secure access to government jobs for minorities. Now, their own union is gone, the Confederation is gone, and Lee Cheuk Yan is in jail. The government is reviewing all unions and asking for explanations of their political activities. Union

leaders have been intimidated into disbanding their organizations and leaving Hong Kong.

In fighting for social justice, I focused on macrosocial work and challenged the very formulation of government policies. In my early career, government officials and school administrators were not responsive. To get their attention, I called journalists to write stories and asked legislators to press questions. Today, if you criticize government policies, you could be arrested for inciting hatred of the government. The cause has also lost critical allies. Independent media have been shut down and journalists arrested. Former pro-democracy legislators are all behind bars or in exile.

Making noises within Hong Kong was not enough to get government responses. I figured that Hong Kong signed a range of international agreements that promise equality: the International Covenant on the Elimination of Racial Discrimination, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. Thus, I went to international human rights oversight meetings to pressure the Hong Kong government to honor its treaty obligations. This kind of international advocacy would lead to the charge of foreign collusion now.

The National Security Law crackdown has also made it nearly impossible for civic organizations to raise funds. We used to collect public donations at mass rallies and from online crowd-funding. Now, protests are banned and groups who raise fund online have been arrested for "money laundering." We used to enjoy donations from private family foundations and local corporate sponsors. Now, they no longer dare support independent groups for fear of upsetting the government. We also used to receive funding from international foundations. Now, this could lead to the charge of foreign collusion. The sources of funding for civil society organizations have dried up.

After over two decades of hard work, ethnic minorities finally felt proud that they were accepted as Hong Kongers. By 2019, many South Asians who grew up in Hong Kong could speak fluent Cantonese. They received university education and became successful professionals in different sectors. Some even became recognizable faces in the media and ran for elected office.

The crackdown has set everything back. If we ethnic Chinese Hong Kongers are fearful of the National Security Law, minorities are even more so. Many minority youth were arrested during the anti-extradition protest. They have received much less help with legal fees and other support. South Asians are also worried that their ties with their hometowns could make them vulnerable to charges of foreign collusion.

Minorities love Hong Kong and don't understand China, now Hong Kong has become like China—they are lost as to what to do and who they are. The crackdown has been such a shock to the entire community that even elites have withdrawn from the society. They have resorted to the original position that they had over two decades ago: "we are always seen as outsiders"; "don't complain about discrimination"; "don't talk about fighting for your rights."

This is utterly heartbreaking development. I should add that minority rights represent just one example. The same is happening to LGBT rights and other vulnerable groups, such as sex workers.

SOCIAL WORK

As a social worker, let me take this opportunity to address worrisome developments in the profession.

The profession's code of conduct specifies that social workers promote human rights and social justice. Under the National Security Law, social work will go down like journalism. It will lose its soul. Social workers will no longer dare to do advocacy work. Nor will they have the resources to do so.

There is a fundamental distinction between civil society groups that raise their own funds and social welfare organizations that are dependent on government funding. The former will find it difficult to continue. The latter don't dare criticize government policies and will exercise even more self-censorship. The government is also subjecting funding of social service organizations to annual review, making them more beholden to official policies.

We should also see what many social service organizations really are. The pro-Beijing Democratic Alliance for the Betterment of Hong Kong and the pro-Beijing Hong Kong Federation of Trade Unions have been cultivating their own social workers and social service community centers. Such pro-establishment organizations receive government funding to provide social services to residents, in an effort to win votes for their party members.

The Liaison Office and the Labor Bureau are organizing study sessions to learn Xi Jinping's Hong Kong speech on the handover's 25th anniversary. The Labor Bureau will take note of which organizations show up for consideration of future funding. Social service organizations that are not in the government camp have to think hard if they need to show up in order to survive.

The social sector will be further controlled by legal changes to undermine its self-governing authority in certifying qualifications. Social workers who violate the National Security Law could be deregistered for life.

PREPARED STATEMENT OF CHING CHEONG

A. OVERVIEW

1. The dismantling of Hong Kong's (HK's) Civil Society started as soon as the Sino-British Joint Declaration was signed in 1984. Despite the open pledge of "one country two systems" with "Hongkong people ruling Hongkong", enjoying a "high degree of autonomy" for 50 years, what the Chinese Communist Party (CCP) did was to send swarms of national security agents to HK to make sure that "the transition (from British to Chinese sovereignty) will be based on solid power".

2. In 1984, China started to draft the Basic Law, the mini-constitution for post-1997 HK. During the drafting process, the CCP had already shown signs that it would somehow roll back on its promise. It reminded the law-drafters that post-1997 HK should only be an economic city and not a political one, which suggested that the thriving civil society might be curtailed. The CCP was wary of HK becoming a bridgehead of Western political influences to subvert its one-party dictatorship.

3. With this apprehension in mind, the CCP began to identify forces that it thought might be endangering its dictatorial rule By the early 1990's. I was shown (but not given) a draft report prepared by a senior national security cadre in which it advised that the central government should watch out for after 1997. These include: 1. Journalists, 2. Religious leaders, 3. Lawyers, 4. Educators, and 5. Social workers. I said this report would mislead Beijing and ruin Hong Kong, for they formed the key pillars of the city's civil society. Unfortunately, I couldn't convince them to change their views. We have been paying the price for this.

4. In 2003, just five years after the handover, the CCP had already mapped out a detail plan aimed at suppressing these five groups of people. It compiled a data base of all the prominent figures in each of these sectors and classified them according to their political attitude towards the CCP either as friendly, neutral or animus and develop different united front strategy for them, either to co-opt or eliminate them. It set up a psychological warfare department to discredit those who fell under their "strike-list". The scene was set for an overall crackdown of HK's civil society.

5. Beginning 2003, the CCP took several important measures to abrogate its Basic Law commitments. All these measures were aimed at imposing the CCP's will on HK, and gradually convert HK from a free society to an authoritarian one. Such efforts culminated in the enactment of the draconian National Security Law (NSL) which ultimately destroyed HK's civil society.

B. THE MEDIA SECTOR

6. HK's media sector was the first to be compromised. Before 1984, HK's media market was dominated by anti-CCP publications, with pro-CCP ones numbering just five (Wen Wei Po, Ta Kung Pao, New Evening News, Ching Pao and Commercial Daily) with a combined readership less than 80,000. Thus, the CCP started with converting the most important anti-CCP media, using its so-called "magic weapon" of united front strategy. The Director of the Xinhua News Agency Xu Jiatun, the CCP's number one man in HK, started with a friendly approach by wining and dining newspaper owners and executives.

7. For example, to woo Sing Tao Daily, a well-established pro-Taiwan newspaper, Xu arranged a charter flight for the publisher Sally Aw Sian to visit her hometown in Fujian Province, which the family had not stepped foot on for decades. To coopt the liberal Ming Pao, which asked the embarrassing question why Beijing was adamant at taking back Hong Kong while forfeiting legitimate claims to huge tract of territories taken away by Russia, Deng Xiaoping himself hosted publisher Louis Cha a dinner. This honor succeeded in silencing him.

8. Other means to transform the HK media milieu included outright acquisition of shares of major news outlets by pro-China business tycoons, such as the acquisition of the influential South China Morning Post by Malaysian sugar tycoon Robert Kuok in 1993, the Ming Pao by Malaysian media tycoon Tiong Hiew King. This trend continued after 1997 with a CCP member Li Ruiguang acquiring a majority

share of the most influential outlet TVB in 2015. Such acquisition resulted in obvious change in their respective editorial policies.

9. By 2012, the remaining mainstream news outlet that was still critical of the CCP and supportive of the democracy movement was Jimmy Lai's Next Magazine and the Apple Daily, together with a few web-based media such as the Stand News and the Citizen News. They too became the natural targets of the CCP.

10. The enactment of the National Security Law in 2020 gave the authority wide-sweeping power to shutter all the remaining pro-democracy news outlets, with Apple Daily and the Stand News bearing the full brunt. The chilling effect was obvious. For example, the FCC voluntarily suspended its annual Human Rights Press Awards, citing the elusive red line. The Hongkong Journalist Association lowered its threshold for dissolution in anticipation of the pressure to disband itself. The Independent Commentators Association, set up to safeguard media freedom, went into silent voluntary dissolution. The editorial policies of news outlets had to toe Beijing's line, for example, calling the Russian invasion of Ukraine as "special military operation" instead of "invasion", and churned out commentaries that blamed the U.S. for causing the Russian invasion.

C. LESSONS FOR THE WORLD

11. In a short span of 25 years the once free society soon degenerated into an authoritarian one. For over a century, the city that had served as the haven for political dissidents from China, now becomes the exporter of political refugees itself. Once prized as the freest places in the Chinese-speaking world, now experienced unprecedented curtailment on freedom of speech and expression. The Pearl of the Orient, a highly successful crossbreed of East and West civilization, began to lose its luster, an irreparable loss to the whole world.

12. Thus, the post-1997 history of Hongkong provides a classical example of how, in time of peace, a free society based on the rule of law is being imperceptibly converted into an authoritarian one in which law becomes a tool of political repression. The world can learn from Hongkong's experience and draw important lessons therefrom to avoid begetting the same fate.

13. Worse still, we find with alarm that the tactics the CCP used to convert Hongkong are being applied in Western democracies as well. These familiar tactics, including propaganda, united front strategy, party-building mechanism, infiltration, and intelligence to name the most obvious, are clearly at work in the West. Our dreadful experience is therefore relevant to the whole world.

14. Thus, the dreadful experience of Hongkong provides a wake-up call for the whole world. Caring for Hongkong is not just for Hongkong's own sake but for the sake of the whole world. The world needs to learn from HK's lesson and take precautionary actions against the stealthy erosion by the CCP leading to the collapse of the Western societies. Since we witness first-hand how the fundamental pillars of a free society can be easily destroyed by the CCP, we feel duty-bound to explicitly state the obvious danger.

D. POLICY RECOMMENDATIONS

15. On HK: Since HK is no longer a free society as envisaged in the 1992 U.S.-HK Policy Act, it might be appropriate to scrap that Act to reflect the change since 1992. To address the urgent needs of today, Congress should pass the provisions in Sec. 30303 (Hong Kong Freedom and Choice provisions) and other Hong Kong-focused measures in H.R. 4521 in the conference committee.

16. On the U.S.: To stave off the CCP's erosion of the U.S., Congress should provide resources to:

- Step up the surveillance of CCP-related activities in the U.S.: activities that would potentially undermine a free society (propaganda, united front strategy, underground party building, intelligence gathering and infiltration into various level of the administration) to protect the American political system.
- Conduct research, under the CECC framework, into ways to reverse the appeasement sentiments towards the CCP which is quite rampant in the U.S. If appeasement towards the CCP is allowed to develop unabated, then "Today Hong Kong, Tomorrow the World" (by Mark Clifford) will be the result.

PREPARED STATEMENT OF SAMUEL BICKETT

THE DETERIORATION OF HONG KONG'S JUSTICE SYSTEM

Hong Kong's justice system has been corrupted by Beijing's authoritarian security apparatus. If a court case is of political interest to Beijing or its agents in Hong Kong, a defendant has little hope of receiving a fair trial, and often will spend years in prison before receiving a verdict.

While few people of good faith would still defend the Hong Kong Department of Justice and Police Force, there are those who insist the judiciary continues to operate independently and in accordance with law. The evidence shows otherwise.

Under the 2020 National Security Law, Beijing formally set up a parallel justice system that it could control for certain political cases; the outrages of this system have been well documented. But relatively little is said about the deterioration of traditional common law courts. While some low-level protest cases might still fly under the radar, high profile political defendants wrongly charged in common law courts with crimes like unlawful assembly, riot, and incitement face almost as little hope as national security law defendants. In these cases, unable to rely on the repressive language of the National Security Law, prosecutors and judges instead manufacture evidence and twist well-established legal principles to obtain convictions.

Many ordinary judges have been willing participants in the dismantling of defendants' rights. The burden of proof has been turned on its head; rather than requiring the prosecution to prove its case, judges often declare that defendants haven't sufficiently proved their innocence. Faced with inconvenient facts, judges falsify or deliberately omit exculpatory evidence so frequently that those of us working to document it can't keep up.

Even in non-NSL cases, judges often deny bail to defendants who then languish in prison for years awaiting trial. The judiciary's leadership has also ordered all judges to attend national security seminars given by mainland officials, in which they are trained to view court cases through a political lens.

Judges who follow the law are punished. When Beijing's state media attacked several judges who acquitted protesters in early cases, the Judiciary's leadership removed the judges from the bench and reassigned them to desk duty. State actors harassed and threatened one judge so severely that in 2021 he abruptly resigned and moved with his family to the U.K. As for the DOJ, when Beijing passed the National Security Law in Summer 2020, the Chief Prosecutor, David Leung—not a pro-democracy activist by any stretch—was reportedly seen as not loyal enough to Beijing and excluded from national security cases. He resigned and was replaced by someone more willing to play Beijing's game. The message to both judges and prosecutors has been crystal clear: get in line, or suffer the consequences. Many ethical judges and prosecutors have left their jobs, and those who remain are a mix of those who are too craven to do their duty and those who enthusiastically embrace the authoritarian regime.

Private lawyers are next: Both the Law Society and Bar Association regularly issue screeds defending government positions while remaining silent on government abuses, and both organizations recently launched investigations into dozens of private lawyers for their work representing protesters. One national security judge, Stanley Chan, has suggested that lawyers who provided their business cards to protesters could be criminally liable as accomplices. National security police interrogated the former chair of the bar association, after which he quickly moved to the U.K., and a number of esteemed barristers are in prison without trial for political activity. One well-known human rights solicitor decided to leave the city after being attacked in state media; he was harassed by CCP reporters even as he walked through the airport to his gate. Any remaining principled criminal lawyers will either fall in line, leave the profession, or risk prison themselves.

The Legal Aid system for indigent defendants was also revamped last year. Whereas previously a defendant could choose their lawyer, under the new system the government assigns a lawyer for them. Unsurprisingly, any lawyers seen as insufficiently loyal to the regime are excluded.

MANY CASES, INCLUDING MY OWN, ILLUSTRATE HOW THE SYSTEM HAS BEEN CO-OPTED

There are many non-NSL cases in which these abuses have been documented, some of which I have written about in my Hong Kong Law & Policy Newsletter. Two high profile incitement of unlawful assembly cases illustrate this point:

- Magistrate Amy Chan convicted activist lawyer Chow Hang Tung of inciting others to unlawfully assemble in Victoria Park on the June 4, 2021 Tiananmen

Crackdown anniversary. The conviction was based on a social media post in which Chow invited followers to "light candles in every corner of Hong Kong"—plainly, not an invitation to come to Victoria Park. In her written ruling, Magistrate Chan simply deleted this exculpatory line when she reprinted the social media post.

- Judge Amanda Woodcock convicted Apple Daily founder Jimmy Lai for inciting others to join a similar Tiananmen Crackdown vigil in Victoria Park a year earlier. Lai had stood by silently at a press event in which a pro-democracy organization, Hong Kong Alliance, announced it would later walk to Victoria Park. Lai left and did not go to the park. Woodcock ruled that because Lai "is a prominent public figure known to publicly share similar views as Hong Kong Alliance," and because at the press conference, he was "surrounded and followed by photographers and reporters," his very presence was an effort to incite others to attend the gathering. In other words, Jimmy Lai was guilty because he was Jimmy Lai.

My own case is another illustration. While many Hongkongers have had it much worse than me, my experience shows how the system has been co-opted and politicized by officials, often crossing into outright criminal misconduct. At every stage, public servants failed me, failed their oath, and failed Hong Kong.

In December 2019 while out shopping, I came across two men beating and choking a teenager with a baton. As a crowd formed and several people filmed the events, a British man asked them in English if they were police. They both responded no. I then asked them in Chinese if they were police. They both responded no in Chinese. When one of the men, Yu Shu Sang, began to attack the British man, I grabbed at the baton to stop him. After a scuffle, I took hold of one side of the baton and detained him until the police arrived a few minutes later. When they came, the police claimed that Yu was actually a police officer. The whole incident was caught on cell phone video, and Yu admitted on questioning that he had falsely accused the teen he was beating of a crime he didn't commit, but they arrested me anyway and let the attackers go free.

I spent two days in police custody, where I was tortured using a common method in Hong Kong. The police put me in a room with the temperature set at around 35 degrees Fahrenheit (2 degrees Celsius) for hours at a time. Periodically, an officer would pull me out of the room shivering and turning blue, warm me up, and interrogate me. Each time, I would refuse to answer and they would put me back in the freezing room.

After obtaining bail, my lawyers wrote to the DOJ to urge them to look at the evidence showing my innocence and drop the case. I still held out hope that my legal colleagues in DOJ, sworn to the law just as I was, would do the right thing. They did not. A court prosecutor wrote back that they would pursue the charges, despite the evidence of my innocence.

In Spring 2020, the prosecutor assigned to the case told my counsel that she wanted to drop the charges, but that her superiors were proceeding with the case because I was a foreigner who had "embarrassed the police" on camera. That prosecutor was then removed from my case, and a private lawyer named Memi Ng was appointed to prosecute me instead.

It became clear by this point that it was the police, not the DOJ, calling the shots. At every hearing, two police officers sat behind Ms. Ng and instructed her on even minor issues—a violation of both the prosecution code and Hong Kong Law, which require prosecutors to act independently of the police and on the basis of law. This court scene—police officers quite literally whispering in the ear of the prosecutor—is now routine in politically sensitive cases.

During the discovery phase, we discovered that the police had destroyed CCTV camera footage showing an earlier attack on the teen by Yu that I had not witnessed. The police also admitted in writing that they had "no evidence" that Yu was a serving police officer, and only months later, after we raised objections repeatedly, produced a suspicious document "delaying" Yu's retirement date past the time of the incident. We also discovered that the Police had called in their only civilian witness, the second attacker Lo Chi Keung, before trial and offered to "award" him with a cash bribe. I was unusually persistent and rigorous in tracking down this rampant misconduct, but if it happened to me, it is surely happening in other political cases.

At my May 2021 trial, Magistrate Arthur Lam disregarded the inconvenient videos of the incident and police admissions at trial of repeated lying, destruction of evidence, and witness tampering. He then simply invented a new series of events, indifferent to how transparent his misconduct was. He convicted me and sentenced me to four and a half months in prison.

After nearly two months in prison, I was released on bail pending appeal. Despite everything, I still held out hope for the judiciary, and believed that an appellate judge would reverse the conviction.

I was wrong yet again. The court assigned the case—supposedly at random—to a notorious national security judge, Esther Toh. In reality, even common law case assignments are no longer random, and high-profile political cases almost always go to a small circle of Beijing-friendly judges. At the hearing, Judge Toh gave several speeches to the assembled press, including one defending the right of police officers to falsely accuse people of crimes they didn't commit, and another proclaiming that it is never lawful to stop a police officer, even if they're off duty and committing a violent crime. Judge Toh, of course, upheld the conviction, and sent me back to prison for the rest of my sentence.

On March 22 of this year, officers took me from the prison and immediately deported me to the U.S. I am still appealing my conviction, this time to the Court of Final Appeal. The Court has already refused to hear my case once, without any justification for doing so. I am now applying a second time for a hearing. But my previous optimism is gone—I expect nothing but obfuscation and rejection from the Court.

FINAL OBSERVATIONS AND PROPOSALS

Those holding out hope that courageous officials in the justice system will step up to save Hong Kong's rule of law must accept the reality: Hong Kong's much-lauded justice system is lost. Going forward, officials will no doubt point to an occasional acquittal as evidence of their fairness, but there is no chance of acquittals in any case that would risk a reaction from political authorities in Beijing.

For businesses who think the compromised legal system won't affect their interests, one only needs to look across the border to Mainland China to see that this cannot be the case. In the Mainland, business disputes involving a foreign company rarely turn in favor of the foreigners, and often result in not just financial losses but exit bans for foreign employees, sometimes for years. If prosecutors and judges have embraced the principle that cases of interest to Beijing must be decided in Beijing's favor, how could it not affect, say, a civil dispute between a U.S. bank's Hong Kong branch and China Construction Bank, or a creditor claim filed in Hong Kong against an insolvent Chinese real estate company? A justice system is either independent of political authorities or it is not—there is no half-way option.

Hong Kong will not be restored to its former glory anytime soon. There is, however, much that the U.S. Government can do to at least increase the costs of Hong Kong's crackdown and deter similar action in the future.

- *Human rights (Magnitsky) sanctions:* While the U.S. has sanctioned a number of top Hong Kong officials, this does little to curb the serious abuses of officials in the justice system further down the chain. I urge Congress and the White House to issue sanctions against midlevel prosecutors and police officials who have misused the court system to unjustly imprison perceived dissidents. A wide net cast low enough into the ranks just might deter some civil servants from further perverting the justice system. And while any government that values judicial independence should be very cautious about sanctioning judges, there is simply no question that some judges have abandoned judicial independence, including the Chief Justice and the known National Security Law judges. These judges merit consideration for sanctions as well.
- *Penalties against U.S. companies for facilitating human rights abuses:* Ultimately, only measures that increase the risk to businesses of investing in authoritarian regimes can curb Beijing's excesses in the Chinese mainland and its colonies. Industry-based sanctions such as those issued against Russia in 2014 are one way of doing this, but lesser measures can also have an impact. One option that could be very effective is a law in the mold of the Foreign Corrupt Practices Act that prohibits U.S. persons, including U.S. companies, from facilitating serious human rights abuses, and subjects violators to civil and criminal penalties. I would also urge that any such law go beyond the FCPA in permitting private civil actions against offenders, which would enable private plaintiffs and attorneys to take up much of the work of enforcing the law.
- *Immigration pathways:* I urge Congress to finally provide a special immigration pathway for Hongkongers to live and work in the United States, and eventually obtain citizenship. As our allies in the U.K., Canada, and Australia have moved forward with such pathways, Hongkongers have moved to these places in droves. These Hongkongers are by and large well-educated, relatively wealthy, and of working age. They will make exceptional contributions wherever they land, and it is America's loss that we are not doing more to attract them here.

CONCLUSION

To be frank, the U.S. Government has, to this point, done far too little to stem the rise of CCP authoritarianism. To illustrate how far we are from the mindset we need to be in: As we speak, just a short walk away the Smithsonian National Museum of Asian Art is co-hosting a Hong Kong film festival with the Hong Kong Economic and Trade Office, Hong Kong's principal propaganda arm abroad. If even U.S. Government entities here in the nation's capital haven't yet gotten the message that these are not people we can work with, how can we expect U.S. businesses to stop cooperating with the regime? How can we demand it of our allies?

Finally, I urge all members of Congress to remember that this country's credibility abroad on issues of democracy and human rights is inextricably tied to whether our leaders are seen as respecting democracy and human rights at home. The rhetoric and actions of some members of Congress related to the last presidential election have severely hurt America's influence abroad, and given our adversaries in China and elsewhere ammunition as they seek to spread authoritarianism across the world. I urge all of America's leaders to remember that their actions on domestic issues have consequences well beyond the country's borders.

Thank you for your time and attention.

PREPARED STATEMENT OF SENATOR JEFF MERKLEY

Good morning. Today's hearing of the Congressional-Executive Commission on China entitled "The Dismantling of Hong Kong's Civil Society" will come to order.

Earlier this month, Hong Kong marked the 25th anniversary of the British handover to the People's Republic of China. Instead of celebrating the "high degree of autonomy" and "universal suffrage" promised to the people of Hong Kong, this anniversary serves as an occasion for Chinese leader Xi Jinping to go to Hong Kong and flaunt the control he now wields over the city.

It's now been two years since implementation of Hong Kong's draconian National Security Law. In these two years, authorities completed the transformation of Hong Kong from an open society into a city gripped by fear—fear of the mainland's authoritarian repression.

A city that once boasted a vibrant civil society and pro-democratic institutions saw these pillars of what made Hong Kong so special systematically dismantled. The Hong Kong government now jails protesters and politicians, shuts down independent media, and silences critics, even criminalizing dissent. At least 10,500 Hong Kongers have been arrested for political and protest-related offenses. No fewer than 123 individuals face national security charges and will likely be tried with few or no due process protections and with possible extradition to mainland China. At least 65 civil society organizations have shut down or left Hong Kong for fear of prosecution under the National Security Law. Today, sadly, that once-vibrant civil society is crushed, muted, and scattered.

Today's hearing offers a microcosm of what's happened and what remains. Our witnesses bring a deep history in civil society in Hong Kong, as well as experience being persecuted, and having to continue their work in exile, in Tokyo, in London, in Los Angeles, and here in Washington, DC. Like so many, they continue to fight for the people of Hong Kong and its once-proud institutions.

In recent months, this Commission has heard from dozens of Hong Kong's true patriots: journalists, human rights advocates, students, former legislators, social workers, religious clergy, nongovernmental organization staff, doctors, nurses, lawyers, teachers, and trade union organizers. In the coming days, we will release a report on what those members of civil society have experienced, largely in their own words.

Today's hearing offers a glimpse into that bleak picture. The Chinese government's policy of crushing resistance turns Hong Kong into a city subject to centralized political control like other cities in China. The civil society voices we've heard from view authorities as co-opting those who can be bought, constraining those who can be intimidated, and cracking down on those who cannot be silenced.

As we hear some of those stories today, I look forward to learning from our witnesses what we can do to support the civil society that remains in Hong Kong and organizations that now operate elsewhere on behalf of the people of Hong Kong.

I look forward to exploring with the Biden administration the additional steps that can be taken to hold accountable those responsible for undermining Hong Kong's autonomy, basic rights, and rule of law. Later today, the Commission will release a staff analysis on the role of Hong Kong prosecutors in these abuses. We hope that this analysis, like the work we do documenting political prisoner cases

generally, will shine a light in a dark place and point to a better path ahead. Without objection, these supplementary materials will be entered into the record.

PREPARED STATEMENT OF REPRESENTATIVE JAMES P. MCGOVERN

Thank you, Mr. Chairman, for holding this hearing on the erosion of civil society in Hong Kong.

Hong Kong has long been a particular interest of this Commission. From the start, 20 years ago, our annual report has included a discrete Hong Kong chapter. This is the sixth hearing on Hong Kong, or featuring a witness on Hong Kong, in my three and a half years as House co-chair. The reason for this heightened attention is regrettable, however.

The changes in this time have been dramatic. Three years ago this summer, the world witnessed massive protests in the streets of Hong Kong. The trigger was an extradition treaty that put residents at risk of being forcibly sent to the mainland. The context was the steady erosion of democratic norms under Chinese government and Communist Party influence.

For our September 2019 hearing on the protests, witnesses flew in from Hong Kong. They would not be able to do that today. One witness was Joshua Wong, a leader of the pro-democracy movement, making his second appearance before the CECC. Today he is in prison on political charges. Another was Denise Ho, a democracy activist and singer. She was arrested and released on bail, and still faces charges of the crime of supporting democracy.

In 2020, the central government passed the National Security Law, providing a "legal" basis for political persecution of those deemed oppositional to the Party's priorities. Further, Hong Kong authorities have imposed measures aligned with the ideological priorities of the central government. These include removing books from libraries, pushing "patriotic education" in schools, revising history to suit Party narratives, and suppressing LGBTQ voices.

These impulses are not exclusive to Hong Kong or China. We see such evidence of authoritarian creep in many places at home and abroad.

Today we hear from citizens and residents of Hong Kong who have been firsthand witnesses to this extraordinary change. The fact that none of our witnesses remains in Hong Kong is indicative of the crackdown. We invite them to share their stories and to speak for their friends and colleagues still in Hong Kong who are not able to speak for themselves.

We not only want to hear about the state of civil society, but to receive recommendations on what U.S. policymakers can do to support those who still desire democracy and human rights. I also welcome your recommendation on whether the U.S. should create humanitarian pathways for those fleeing repression in Hong Kong.

Lastly, let us not forget the prisoners of conscience who are in jail or on trial in Hong Kong—Joshua Wong, Jimmy Lai, Cyd Ho, Claudia Mo, and so many others. We continue to stand with them and to advocate for their release.

Again, thank you, Mr. Chairman. I know the staff is working on analytical products in conjunction with this hearing and I look forward to their publication. I look forward to the testimony.

Submissions for the Record

Submission of Senator Ossoff

List of Journalists and Press Freedom Defenders Arrested in Hong Kong

1. Jimmy Lai Chee-ying
2. Claudia Mo Man-ching
3. Gwyneth Ho Kwai-lam
4. Frankie Fung Tat-chun
5. Wan Yiu-sing (Giggs)
6. Cheung Kim Hung
7. Ryan Law Wai-kwong
8. Lam Man-chung
9. Yeung Ching-kee
10. Fung Wai-kong
11. Chan Pui-man
12. Patrick Lam Shiu-tung
13. Chung Pui-kuen

CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA

STAFF RESEARCH REPORT
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Hong Kong Prosecutors Play a Key Role in Carrying Out Political Prosecution

CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

About the Congressional-Executive Commission on China

The Congressional-Executive Commission on China was established by the U.S.-China Relations Act of 2000 (Public Law No. 106–286) as China prepared to enter the World Trade Organization. The Commission is mandated to monitor human rights and the development of the rule of law in China.

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HONG KONG PROSECUTORS PLAY A KEY ROLE IN CARRYING OUT POLITICAL PROSECUTION

SUMMARY

The Hong Kong government's hardline approach to dissent and pro-democracy views, and the growing number of political prisoners, raises serious concerns about the erosion of the rule of law in the city. A stable legal system, the free flow of news and information, and guaranteed rights protections have undergirded Hong Kong's economic and cultural vitality and were critical to both business confidence and U.S.-Hong Kong relations.

*If Hong Kong's prosecutors are allowed to exercise the discretion given them under the city's Prosecution Code, the number of political prosecutions and arbitrary detentions could dramatically decrease, as at least **10,500** people were arrested for political and protest-related activity. However, the growing number of political prisoners in Hong Kong and the role of the Justice Department and prosecutors in expanding arbitrary detention may require actions from the United States and the international community to address the erosion of the rule of law and human rights, including additional sanctions authorized by the Hong Kong Autonomy Act and the Hong Kong Human Rights and Democracy Act.*

I. Background

Hong Kong's Basic Law provides that "[t]he Department of Justice . . . shall control criminal prosecutions, free from any interference."[1] Within the department, the prosecutorial function is discharged by the Prosecutions Division and the National Security Prosecution Division.[2] The latter was created in June 2020 by Article 18 of the National Security Law (NSL),[3] but its operations and staffing have remained opaque, as the government has refused to disclose relevant details.[4] Public reporting shows that cases involving national security and those arising from the pro-democracy protests in 2019 primarily have been handled by prosecutors in the Prosecutions Division's Special Duties team, which was set up in mid-April 2020, two months before enactment of the NSL.[5]

In December 2021, Director of Public Prosecutions Maggie Yang Mei-kei, who heads the Prosecutions Division, issued a yearly review in which she acknowledged that some prosecutions carried out by her division were "politically sensitive" but maintained that her team adhered to prosecutorial independence as required by the Basic Law and the Prosecution Code.[6] The yearly review, however, made no mention of prosecutions involving alleged national security,[7] which observers have described as political persecution.[8]

The increasingly apparent political motivation behind the department's actions had provoked some internal dissent, but such voices have not been heard since 2019, possibly due to retaliation. During the 2019 protests, a group of prosecutors questioned the integrity of their leadership anonymously in an open letter, saying that the then-Secretary of Justice and Director of Public Prosecutions placed political considerations above the Prosecution Code when they decided to charge 44 protesters with rioting the day after police arrested them at a protest against police brutality.[9] Another prosecutor also wrote to the leadership criticizing the Hong Kong government's handling of the protests, but he was later suspended and faced further possible disciplinary action.[10]

Since June 2019, the Department of Justice has prosecuted at least 2,944 individuals on NSL and protest-related charges,[11] some of which infringed on the universal human rights of a wide range of people including protesters, journalists, civil society workers, and opposition political figures. The Commission has identified the Hong Kong government prosecutors responsible for some of these cases:

II. The Prosecutors

1. **Maggie YANG Mei-kei**[12] is Director of Public Prosecution, the head of the Prosecution Division.[13] Yang was promoted in August 2021 from her post as head of the Special Duties team two weeks after she reportedly made a trip to Beijing with the Secretary of Justice.[14]
    - Yang was the lead prosecutor in the case involving 47 pro-democracy activists who were arrested for organizing or participating in the informal primary election in July 2020 ahead of the scheduled Legislative Council election.[15] In March 2021, she sought to deny bail for the detainees and appealed 11 of the 15 cases in which the detainees were granted bail.[16]
2. **Anthony CHAU Tin-hang**[17] is acting Deputy Director of Public Prosecution of the Special Duties team.[18]
    - Chau prosecuted protesters Leon Tong Ying-kit and Adam Ma Chun-man and secured convictions against them on charges including "inciting secession" for

displaying or chanting slogans such as "Liberate Hong Kong, Revolution of Our Times."[19] Ma's case in particular, as one that involved only speech,[20] represents a setback for free speech protection in Hong Kong and a departure from the government's previous deference to the Johannesburg Principles, which limits government restrictions on speech and access to information on national security grounds.[21]

3. **Laura NG Shuk-kuen**[22] is acting Senior Assistant Director of Public Prosecutions for the Special Duties team.[23]
    - Ng oversaw the prosecution of seven editors and executives of the now-defunct pro-democracy online publication Stand News on the charge of "conspiracy to publish seditious content."[24] While the offense is not criminalized in the NSL, the case is being heard by a judge designated to hear NSL cases.[25]
    - She also is responsible for prosecuting five trustees of the 612 Humanitarian Relief Fund that provided assistance to arrested protesters,[26] and five speech therapists who authored children's books deemed to convey anti-government messages.[27]
4. **William SIU Kai-yip**[28] is acting Senior Assistant Director of Public Prosecutions for the Special Duties team.[29]
    - Siu is one of two prosecutors who handled the "unauthorized assembly" case against 26 pro-democracy activists—including Jimmy Lai Chee-ying, Lee Cheuk-yan, Albert Ho Chun-yan, Chow Hang-tung, and Joshua Wong Chi-fung—for participating in a June 2020 vigil commemorating the 1989 Tiananmen protests.[30]
5. **Andy LO Tin-wai**[31] is acting Assistant Director of Public Prosecutions for the Special Duties team.[32]
    - Lo is responsible for prosecuting four senior editors and executives of the now-defunct pro-democracy news outlet Apple Daily on the charge of "collusion

with a foreign country" in conspiracy with Apple Daily's founder Jimmy Lai and others, alleging that they had asked foreign countries to impose sanctions on Hong Kong and Chinese officials.[33] The NSL case against Jimmy Lai is being prosecuted by Ivan Cheung Cheuk Kan.[34] British lawyer David Perry, whom the Department of Justice instructed to prosecute Jimmy Lai and eight others on a separate "unauthorized assembly" offense, withdrew from the case.[35] A former policy advisor welcomed the move, saying, "British barristers should not become part of the repressive apparatus of President Xi's dictatorship."[36]

6. **Ivan CHEUNG Cheuk-kan**[37] is acting Assistant Director of Public Prosecutions for the Special Duties team.[38]
    - Besides the above-mentioned NSL case against Jimmy Lai, Cheung is responsible for prosecuting student activist Tony Chung Hon-lam on the charges of "secession" and "money laundering."[39] With respect to the latter charge, reports did not indicate that it was supported by wrongdoing independent of Chung's activism.[40]

The Commission also observed that other prosecutors (who are not or cannot be confirmed to be part of the Special Duties team) have handled political cases in varying degrees of involvement. They include—**Alice CHAN Shook-man**,[41] **Crystal CHAN Wing-sum**,[42] **Cherry CHONG Man-yan**,[43] **Derek LAI Kim-wah**,[44] **Wilson LAM Yi Yeung**,[45] **Edward LAU Wan-cheung**,[46] **Vincent LEE Ting-wai**,[47] **Karen NG Ka-yuet**,[48] and **Jennifer TSUI Sin-chi**.[49]

III. U.S. Policy Options

Under U.S. law, foreign persons who violate human rights or undermine Hong Kong's autonomy may be subject to sanctions. The Hong Kong Human Rights and Democracy Act of 2019 obligates the President to deny entry to the United States and block assets of foreign persons identified as being responsible for human rights violations including arbitrary detention.[50] While "arbitrary detention" is not defined in the law, the UN Working Group on Arbitrary Detention considers a detention arbitrary if, for instance, it

is used to suppress the exercise of universal human rights or is applied in a discriminatory manner based on a person's political opinions.[51] The Hong Kong Autonomy Act of 2020, which was enacted shortly after the NSL, similarly provides for sanctions on foreign persons who have "materially contribute[d] to the failure of the Government of China to meet its obligations under the Joint Declaration or the Basic Law," obligations that guarantee that Hong Kong "will enjoy a high degree of autonomy."[52]

Based on these legal authorities and Executive Order 13936, the Department of the Treasury in August 2020 imposed sanctions on 11 individuals "for undermining Hong Kong's autonomy and restricting the freedom of expression or assembly of the citizens of Hong Kong."[53] Among them is then-Secretary of Justice Teresa Cheng Yeuk-wah, whom the U.S. Government sanctioned for "being responsible or involved in developing, adopting, or implementing the National Security Law."[54]

On July 1, 2022, **Paul LAM Ting-kwok** took office as the new Secretary of Justice.[55] Lam expressed that he was not concerned about being sanctioned,[56] and Reuters reported that he "is widely expected to continue to oversee the tough prosecutorial approach of his predecessor, Teresa Cheng, against opposition figures, activists and protesters."[57] But prosecutors within the department are free to make decisions for themselves, as the Prosecution Code specifically grants them prosecutorial discretion, stating that they "shall not be bound to prosecute an accused person in any case in which [they] may be of [the] opinion that the interests of public justice do not require their interference."[58]

ENDNOTES

[1] Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, passed April 4, 1990, effective July 1, 1997, art. 63, https://perma.cc/A72L-S2JX.

[2] Department of Justice, Hong Kong SAR Government, "About Us; Organisation," accessed July 1, 2022, https://perma.cc/Y98Q-Z8AU.

[3] *Zhonghua Renmin Gongheguo Xianggang Tebie Xingzhengqu Weihu Guojia Anquan Fa* [Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region], passed and effective June 30, 2020, art. 18, https://perma.cc/U6SH-VDHT.

[4] "Luzhengsi Guo'an Jiankongke fuzeren chengmi jugongkai renshou bianzhi xiaoxi zhi neibu choudiao renshou zucheng chuan jiechu tuixiu gaoceng huichao" [Head of the National Security Prosecution Division of the Department of Justice is still unknown, refuses to disclose staffing, information indicates that it is formed by internally transferring staff, retired high-ranking official rumored to return], *Stand News*, reprinted in *collection.news*, February 10, 2021, https://perma.cc/KMZ8-9D5X.

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United States House of Representatives
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Witness Biographies

Patrick Poon, visiting researcher, Institute for Comparative Law at Meiji University, Tokyo, Japan

Patrick Poon is a visiting researcher at the Institute for Comparative Law at Meiji University, and advisor to the 29 Principles, a U.K.-based organization supporting lawyers facing human rights oppression. In his years in Hong Kong, Poon was a court reporter at the South China Morning Post, China Labour Bulletin, China Human Rights Lawyers Concern Group, Independent Chinese PEN Center, and Amnesty International. He is well versed in not just Hong Kong-based civil society organizations, but also China-focused human rights organizations that have sought shelter in Hong Kong, and international human rights organizations that have monitored developments in both Hong Kong and mainland China.

Fermi Wong, founder and former executive director, Hong Kong Unison

Fermi Wong is the founder and former executive director of Hong Kong Unison, which promotes equality for ethnic minorities. She set up her own civil society organization with private funding, avoiding dependence on government funding and the consequent inability to challenge government policies. Her work has been featured in Time magazine, the South China Morning Post magazine, and Hong Kong Free Press. In the U.K., she seeks to promote Hong Kong civil society abroad as co-founder and director of the Hong Kong Umbrella Community and Mingle Cafè, and as co-founder and consultant for Green Bean Media.

Ching Cheong, veteran journalist

Ching Cheong worked for the state-owned Wenwei Po newspaper for 15 years, acquiring knowledge of the Chinese Communist Party's interference in Hong Kong affairs ever since the Sino-British Joint Declaration was signed. He is extensively featured in a recent Economist article entitled "How a Free and Open Hong Kong Became a Police State." Before he left Hong Kong, Ching was involved with independent media and journalist organizations.

Samuel Bickett, human rights lawyer and Fellow at Georgetown Center for Asian Law

Samuel Bickett is a human rights lawyer focused on the rule of law and civil liberties in Hong Kong, a Fellow at the Georgetown Center for Asian Law, and author of the "Hong Kong Law & Policy" newsletter. He was a corporate sanctions/corporate corruption lawyer based in Hong Kong from 2013 to 2021. He was arrested during the 2019 protests and convicted, imprisoned twice, and then deported from Hong Kong earlier this year.

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