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Subcommittee on Asia and the Pacific Hearing on

“Hong Kong: A Broken Promise?”

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Chairman Chabot, Ranking Member Faleomavaega, and Members of the Committee,

Thank you for holding this hearing on the subject of Hong Kong’s democratic future and the implementation of China’s promises to provide Hong Kong with a high degree of autonomy. I am honored to join this panel with my colleagues from Human Rights Watch and the Heritage Foundation, two institutions that have long been at the vanguard of the fight for human rights and freedom in Hong Kong. My testimony today will focus on issues related to the legal and policy framework for US engagement on Hong Kong, and how the US government should respond to the current challenge to Hong Kong’s democratic development.

This hearing comes as the Hong Kong authorities have moved forcefully against the peaceful pro-democracy demonstrators of the so-called Umbrella Movement, who have spent the past two months demanding that China allow Hong Kong’s people the genuine right to choose their own leaders. The demonstrators – led by students and young people who have shown incredible civic spirit, determination and courage -- have been calling for a review of China’s August 2014 diktat that Beijing must approve the selection of candidates for Chief Executive when the Hong Kong people take their first direct vote for that position in elections scheduled for 2017. The arrest of the most well-known student leaders over the weekend is particularly troubling, as it signals that Chinese and Hong Kong authorities are no longer interested in trying to resolve this stand-off through dialogue, but rather are determined to crush legitimate expressions of popular dissent through plain coercion.

While such an outcome would be a foregone conclusion in any other Chinese city, one could be excused for hoping the resolution could be different in Hong Kong due to its unique status of being governed not just by China’s whim, but also by international agreements that assured its way of life and freedoms would be protected under authoritarian Chinese rule. Beijing agreed in the 1984 Sino-British Joint Declaration to maintain Hong Kong’s ‘way of life’ and by 1997, that way of life included an expectation of democratic rights and accountable governance. Beijing made it clear early on that they were not happy with what it perceived as last-ditch efforts by the departing British to place Hong Kong on a democratic trajectory. Nonetheless, they usually tried to make a virtue of this situation by arguing that

Hong Kong under Chinese rule would experience greater democracy and human rights than the British had ever allowed. And they were right, up to a point.

Unfortunately, since the signing of the Joint Declaration in 1984, Beijing's authoritarian tendencies have repeatedly won out. Over the past thirty years, Chinese leaders' mania for control and innate distrust of democracy has led them to waste multiple opportunities to get 99% of what they wanted without enduring the kinds of protests that have rocked Hong Kong for the past two months and periodically since 1997. In this latest confrontation, as in the past, the Chinese authorities refused to negotiate in good faith with and attempted to discredit moderate democrats such as Martin Lee and Anson Chan, who sought to reach an accommodation on the issues surrounding implementation of universal suffrage and other ambiguities of Hong Kong's mini-constitution, the Basic Law. Instead, the Chinese authorities issued a National People's Congress Standing Committee decision that put Beijing firmly in control of who Hong Kongers could vote for in the Chief Executive election. By rejecting any compromise with moderate democrats in favor of confrontation with less established forces, Beijing is falling back on its old Marxist playbook and sowing the seeds of long-term discontent in Hong Kong, much as it has on the mainland.

In the same vein, the BBC reported on November 30, that the Chinese ambassador to the UK told the chair of a British parliamentary committee charged with investigating the implementation of the 1984 Sino-British Joint Declaration that its members would not be permitted to enter Hong Kong on their fact finding mission. Sir Richard Ottaway, chairman of the House of Commons Foreign Affairs Committee, had previously been warned by Chinese authorities that the MPs trip would represent an "unwelcome interference into the affairs of another country" and a show of support for the "illegal activity" of pro-democracy protesters.

Beijing has long relied on a mantra of 'non-interference in internal affairs' to combat other countries' allegations of human rights abuses, but there is a breathtaking quality to China telling the British – the other party in the international treaty that guarantees Hong Kong's "one country, two systems" arrangement – to mind their own business. It is almost as incredible as assertions that the people of Hong Kong are not ready for democracy. Prime Minister David Cameron has responded with tougher rhetoric in defense of the UK's interests and Hong Kong's rights, but after several years of acquiescing to Chinese bullying in the name of preserving or restoring commercial and diplomatic ties, the UK's protests are easily ignored.

Both by default and because of our own enduring interests there, the United States remains the key guarantor of Hong Kong's freedoms, as it has since 1997. But we too have lost our voice over the years. When Congress passed the Hong Kong Policy Act in 1992, the US declared that:

The human rights of the people of Hong Kong are of great importance to the United States and are directly relevant to United States interests in Hong Kong. A fully successful transition in the exercise of sovereignty

*over Hong Kong must safeguard human rights in and of themselves.
Human rights also serve as a basis for Hong Kong's continued economic
prosperity.*

At the time the Act was passed, Members and Senators often expressed their hope that post-reversion "Hong Kong would change China more than China would change Hong Kong." And Beijing was already accusing the US of 'interfering in its internal affairs' with the Act, and China's hand-picked incoming Chief Executive Tung Chee-wah attacked Democratic Party Chairman Martin Lee as unpatriotic for supporting it. The US Congress did not let these accusations intimidate it away from continuing to press for Hong Kong's rights and freedoms, and continued passing resolutions, holding hearings, writing letters and directly engaging Chinese authorities on their concerns.

However, when Congress and the administration have gone silent on Hong Kong, the Chinese have pushed their advantage. The US response to negative political developments in Hong Kong has generally been muted since 1997. In 2007, Wu Bangguo, the chairman of the National People's Congress Standing Committee, confirmed Beijing's true intentions when he chillingly intoned that, "Hong Kong had considerable autonomy only because the central government had chosen to authorize that autonomy." That tenth anniversary of the handover also was the year the US stopped issuing annual reports on Hong Kong. But even before the State Department stopped producing the report, they had long become box-checking exercises that scarcely commented on either the growing organic democratic movement in Hong Kong or the related local discontent with the creeping authoritarianism of Beijing's rule.

US handling of Hong Kong has hardly been the only example where our reticence has encouraged the worst impulses of the Chinese regime. Our Hong Kong policy approach takes place against a backdrop of broader reluctance to publicly call Beijing out over abuses that are rooted in the structural authoritarian nature of its regime. Beginning with the period leading up to the 2008 Beijing Olympics, there has been a perceptible change in US willingness to publicly, consistently and vigorously stand up for rights of Chinese dissidents, Tibetans, Uighurs and other persecuted groups. All democratic governments have become more reluctant to speak out over this period, but the absence of a strong US voice has exacerbated this long-term trend.

Given the strong message that the Hong Kong people have sent the world through the Umbrella Movement, however, it is clear the US needs to start acting on both its interests and values in Hong Kong in a more forceful way.

- Recent efforts to again require annual reports on Hong Kong are a good start but Congress needs to hold the administration accountable for making them a serious policy effort, rather than a useless box-checking exercise. In order to achieve this the Hong Kong Policy Act should be amended so that as part of the next report, the executive branch will conduct a full inter-agency review

pursuant to the presidential determination authority in Sec. 202 and include detailed findings regarding whether Hong Kong remains “sufficiently autonomous” to continue receiving the beneficial treatments that currently extend to it. In addition to findings related to various cabinet and sub-cabinet level agencies and their cooperation with their counterparts in Hong Kong, the report should also focus on the overall political context and progress toward genuine democratic reforms. While such a comprehensive review would be impractical on an annual basis, the “determination” section of the report would be updated annually and fully examined on a multi-year basis as directed by Congress.

- House Foreign Affairs and Senate Foreign Relations Committees should consider holding annual joint hearings on the reports as well, complete with high-level administration officials who are publicly called to account for US efforts on behalf of Hong Kong and witnesses who can speak directly on behalf of the Hong Kong people. Congress can also speak directly on its concerns through passing of non-binding resolutions.
- The administration also needs to speak up in defense of Hong Kong, more publicly, more often and more clearly. It should stop issuing confused statements that ignore China’s failure to live up to the promise of ‘one country, two systems’, and paper over the denial of universal suffrage represented by Beijing’s current approach. We also should not forget those on the mainland who were detained solely for expressing support for the Umbrella Movement.
- The US should work with the UK to address China’s implementation of the Joint Declaration through joint commissions of inquiry and joint demarches. The UK is our closest ally and international partner, and their credibility has taken a severe hit due to their failure to stand up for liberal values in Hong Kong. Likewise, we should look for opportunities in UN venues to work with like-minded countries to raise our concerns. While the likelihood of effective UN action is low, Beijing deeply dislikes having to defend its behavior in such forums.
- The US, the UK and commonwealth countries such as Canada and Australia, should develop a joint protocol on treatment of students visa applicants who were arrested for peaceful political activity. Their civic activism should not serve as a barrier to their attending universities in the US and other democratic countries. Joint maintenance of a database of ‘known’ students and shared practices in handling their applications would be the most effective approach, and could be handled through a negotiated MOU.
- Finally, past cuts and elimination of Cantonese broadcasts on RFA and VOA should be reversed to the extent possible, even if this just means making available rebroadcasts of old programming, or making creative use of user-generated content that would be monitored for topicality and appropriateness.

For most of the past 30 years, Chinese authorities generally have sought to reassure the international community in general and the US in particular that Hong Kong would retain its special character under Chinese rule. After the signing of the Joint Declaration in 1984, UK, Hong Kong and Chinese authorities undertook a major effort to convince skeptics in the US Congress and elsewhere that Hong Kong's reversion to Chinese sovereignty would not mean the imposition of Chinese-style authoritarianism or socialism. At that time, Beijing was eager to have high-level, official delegations attend the 1997 handover ceremony, and consistently sought to downplay the control it would have over Hong Kong's internal governance. Chinese interlocutors constantly assured US officials that Beijing would do nothing to 'kill the goose that lays the golden eggs.'

However, there were always signs that China's authoritarian character was not flexible enough to permit the 'one country, two systems' framework to flourish, and we have never paid enough attention to those signs. While the worst-case scenarios have not happened, it is clear that China has undermined the institutions that are necessary for democratic development and taken a broadly paternalistic approach to Hong Kong's governance that is at odds with the cosmopolitan and sophisticated character of the city and its people. At the same time, China itself has retrenched authoritarianism at home and broadly cracked down on dissent in a way that further undermines confidence in its rule over Hong Kong.

Our failure to object strenuously over the past 14 years since the handover has not caused Beijing to give in to its authoritarian tendencies, but we have certainly enabled this outcome. The brave students of the Umbrella Movement have given us a chance to change our approach, and stand with the people of Hong Kong. While external calls for genuine universal suffrage and respect for the rights of Hong Kongers won't fundamentally alter the regime's mindset, they may help to change their short-term calculus on how it handles the current situation. And when Chinese officials tell US officials that Hong Kong is not their concern, we must firmly disagree. Then we can tell them they are free to ignore our demarches but that sooner or later they will have listen to the voices of their own citizens, in Hong Kong and beyond.

Thank you and I look forward to your questions.

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