

Written Testimony of Anna Kwok
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Mr. Chairman, members of the committee, thank you for inviting me to testify at this hearing.

Hong Kong, the city with its promised autonomy under the framework “One Country, Two Systems (1C2S),” was once the beacon of hope for freedom and democracy in Asia. Since 2020, both the Trump and Biden administration have repeatedly acknowledged Hong Kong’s loss of its promised autonomy. **Within 25 years, Hong Kong has descended from being a symbol of a vibrant civil society in East Asia, to the epitome of another failed international deal negotiated with the People’s Republic of China.**

I was born in 1997, the year when Hong Kong’s sovereignty was passed from the United Kingdom to the People’s Republic of China. Through my life, my yearning for democracy and freedom grew along the city’s desires. In the beginning, people were generally hopeful – perhaps we could keep protesting until we see our universal suffrage, perhaps we could maintain autonomy even after the 50-year term on One Country Two Systems, and perhaps, even, we could democratize China and Asia. Years went by, the imagination was proven to be just a fantasy: the HKSAR government started attempting to slowly displace the One Country Two Systems with repressive and propaganda-promoting legislations. The government attempted to introduce the censorship-heavy Article 23 in 2003 and the propaganda-spreading national education curriculum in 2012. It was then, Hong Kongers slowly came to realize the intention behind One Country Two Systems – it was a tactic to buy time for the Chinese Communist Party to slowly burn the frog named Hong Kong. In 2014, Hong Kongers demanded universal suffrage through the Umbrella Movement, the Beijing government outright denied Hong Kongers’ our rights. Eventually, Hong Kongers understood the promised autonomy was nothing but a fraud to slowly rein in Hong Kongers’ freedoms. The last wave of pro-democracy movement in Hong Kong broke out in the summer of 2019, when the Hong Kong government attempted to pass a legislation to allow extraditions from Hong Kong to China. Hong Kongers knew it was almost their last chance before a long winter and gave all they could to turn the tides of history. The city and the people marched in millions, campaigned internationally, and even won with landslide victory in the then district council elections. Hong Kongers banded together to show the world – we call for freedom and democracy, the government is working against the people. However, the years of civil society growth and the months of decentralized movement were ended with a decisive gavel: the Hong Kong government implemented the National Security Law in June 2020, which laid out the legal foundation for the government to arrest and convict Hong Kongers who have been exercising their human rights to advocate politically.

One Country, Two Systems have failed Hong Kong. Some say it has always been a manipulated international deal with the Chinese government – when the system allows for one-party and one-man governance, the system is doomed to fail since the very beginning. Given the Chinese Communist Party’s bad faith dealing records these days, the world would not be so surprised that Hong Kong did not turn out the way democratic countries imagined. However, as the Chinese Communist Party has appeared relatively susceptible to changes years ago, the One Country Two Systems got the world completely fooled for years. I believe every foreign policy analyst and China watcher, even certain Commissioners in presence today, had hopes that one day, Hong Kong would be the defining city in East Asia’s struggle for democracy and freedom. Turns out, it still is, yet it bears an opposite meaning now.

The Cost of a Failed One Country, Two Systems: Political Prisoners

The failure of One Country, Two Systems, which essentially promised Hong Kongers political rights, came with the cost of political prisoners in Hong Kong.

According to Hong Kong Democracy Council’s political prisoner database maintained by Brian Kern, who is also testifying today, by April 30, 2023, the once flourishing civil society has 1,453 political prisoners. Thousands more have been charged with a selection between or a mix of the National Security Law, the colonial-era sedition law, and various other protest-related offenses. Currently, there are around 500 cases pending for trials and sentencing. Convictions made on the grounds of National Security Law and sedition are standing firmly at 100%. While other witnesses have shared experiences faced by specific political figures, such as Jimmy Lai, Joshua Wong, and Gwyneth Ho, we must remember similar fates are also shared by thousands of nameless Hong Konger protesters who are now detained or imprisoned.

The citywide political persecution also erased Hong Kong’s space for political organizing and protesting. Over the past 3 years, media outlets, political parties, civil organizations, and unions have been shut down one-by-one. The once vibrant civil society is now a silenced, censored, and oppressed one. However, it must be recognized that some Hong Kongers on the ground are still persisting, either silently or discreetly. We must not forget about them.

The free fall of freedoms in Hong Kong does not only reflect the state of domestic affairs inside of Hong Kong, its political ramifications ripple through Asia. The city was once a haven for dissidents and marginalized groups. Tibetan, Uyghur, and Chinese activists were able to organize in Hong Kong, Asian human rights advocates relied on Hong Kong to meet with representatives from the international society. With Hong Kong’s relative freedoms eradicated, the state of affairs extends to curtail the general democratic developments in Asia. It also allows the CCP to heighten its regional influence and control in Asia.

Since Xi Jinping came to power, the CCP has sought to intimidate, coerce, and bully countries in South China Sea and beyond – the most notable example being Taiwan. In parallel to the explicit authoritarian expansion, Xi also makes his “no limits” partnership with Putin known, at the time when Russia is actively invading Ukraine. Without a doubt, Xi and the CCP intend to send a strong message on its commitment to authoritarian dictatorship not just domestically, but around the world.

In light of the developing alliance between dictatorship regimes, the U.S. should assert its commitment to pro-democracy values and stand firm against dictatorship regimes. The determination to support basic human rights and promote democracy should be expressed through foreign policy legislations and execution, including offering humanitarian pathways to freedom fighters, and sanctioning human rights abusers.

Recommendations in Relation to Foreign Policies

Humanitarian Pathways

In July 2020, days after the enactment of the draconian National Security Law, the Trump administration determined Hong Kong was no longer “sufficiently autonomous,” and should no longer enjoy certain differential treatment set forth in the United States-Hong Kong Policy Act of 1992. One year later, in August 2021, the Biden administration decided to defer enforced departure for Hong Kongers in the United States for foreign policy reasons, asserting the United States’ commitment to unite democratic values to defend democracy and promote human rights around the world. It is abundantly clear that the issue on Hong Kong has garnered bipartisan support in the United States, and we are grateful for the executive decisions directed by the two consecutive administrations.

While there were quick responses from both administrations to respond to Hong Kong’s situation in 2020 and 2021, thoughts must be put into political prisoners who are currently in jail, especially those who may seek refuge when they are released one day. Hong Kongers have dedicated years of their lives in the fight for freedoms and democracy in Hong Kong, if they can make it to the United States, they will undoubtedly be valuable actors and resources in the foreign policy network.

Currently, while asylum application exists for people who came to the United States directly from Hong Kong, there are no existing pathways for Hong Kongers to come to the United States for humanitarian purposes. In the 116th and 117th Congress, various versions of humanitarian pathway-related legislation were introduced, but none managed to pass. As months become years, we are getting close to seeing a crisis of released individuals getting charged and arrested again in the endless limbo of a corrupted judiciary system.

Therefore, I urge the Commissioners before me to exercise your legislative power to offer humanitarian pathways for Hong Kongers as soon as possible, during the 118th Congress. Among the various measures, Priority 2 (P-2) refugee program allows Hong Kongers to first travel to a third country – vetting procedures can take place to eliminate security concerns there – then resettle to the United States upon successful applications. This program will be impactful for political prisoners who wish to continue their fight against the regime once they are out of jail. It will send a strong message to human rights advocates in Asia on the American commitment to promoting and protecting democracy.

Separately, while eligible Hong Kongers who are in the United States are currently benefited from the Deferred Enforced Departure (DED) program – an executive mean to not deport Hong Kongers who overstay their permitted period – I urge the administration to upgrade the DED program to a longer-term solution, such as the Temporary Protection Status (TPS).

The Biden administration has designated Hong Kongers the DED protection twice: from August 2021 to February 2023 (18 months), and from January 2023 to January 2025 (24 months). In the 2023 redesignation of Hong Kongers' DED, the Presidential Memorandum only came one and a half week before the program's deadline. Hong Kongers in the United States had to face possible deportation, which in its worst-case scenario, would result in another round of mass arrests when protesters have no choice but to return to Hong Kong.

In both rounds of the DED program designation, there was a significant wait time in between the release of the Presidential Memorandum from the administration and the publication of the Federal Register Notice from the USCIS: 77 days in 2021 and 98 days in 2023. Without a published Federal Register Notice, Hong Kongers who are eligible for the DED and its related employment authorization cannot apply for the relevant document. Without legal work document, some Hong Kongers have been terminated or fired at work, causing both livelihood concerns to Hong Kongers and operational difficulties to American employers. However, if Hong Kongers were granted TPS, a program directed by the Department of Homeland Security (DHS), the wait time would be significantly reduced, thus reducing both the administrative burden of the USCIS, the livelihood anxiety of Hong Kongers, and the operational burden on employers. TPS also provides a legal status and basis for Hong Kongers to stay in the United States, which would provide stability for pro-democracy protesters to continue their grassroots efforts in fighting against the CCP. In the past year, there were numerous political campaigns organized by Hong Kongers to uncover the CCP's foreign influence through the Hong Kong government on American soil. As Hong Kongers are undeniably impactful and valuable forces in countering the CCP's authoritarian expansion abroad, I urge the administration to consider upgrading the current DED program to TPS for Hong Kongers in the United States, in order to build a stronger, more resistant, and more comprehensive civil society in the U.S...

Sanctions

In 2019 and 2020, the 116th Congress passed the Hong Kong Human Rights and Democracy Act and the Hong Kong Autonomy Act, which provided available policy tools and authorized the USG to impose sanctions on officials and entities in Hong Kong responsible for violating Hong Kong's promised autonomy.

In response to the continual persecution, conviction, and sentencing pursued by the Hong Kong SAR government, I implore the administration to sanction National Security Law judges and persecutors. When the SAR government maximize the potential of every single policy tool to abuse human rights in Hong Kong, the U.S. government should respond clearly with designated sanctions. It is of utmost importance to hold human rights perpetrators accountable for their complicity in the regime's oppression.

Thus far, sanctioning recommendations have been made by the Congressional Executive Commission on China (CECC), as well as two other Hong Kong advocacy organizations – the Committee for Freedom in Hong Kong (CFHK) and Stand with Hong Kong (SWHK).

The Aftermath of a Failed One Country, Two Systems: Another Proxy for the CCP

While One Country Two Systems is a known fraud at home, the Hong Kong government continues to manipulate the façade of a play-pretend autonomy to appeal to the international society.

The previously recognized autonomy allows the Hong Kong government certain special treatments, including the existence of Hong Kong Economic and Trade Offices (HKETOs) around the world.

Currently, there are three HKETOs present in the United States. They are in New York City, San Francisco, and the country's capital – Washington, D.C... In fact, it is just a 20-minute walk from the White House, and a 15-minute car ride from where we are now.

The HKETOs are overseas representative offices of the Hong Kong government. Granted additional privileges, exemptions, and immunities by legislation and Executive Order 13052 President Clinton signed in June 1997, the HKETOs currently enjoy the same status as institutions such as the United Nations and the International Monetary Fund under the International Organizations Immunities Act (IOIA). The HKETOs were first set up to develop and strengthen positive trade relations between the United States and Hong Kong. In recent

years, it was revealed by the Hong Kong Free Press that the HKETO in Washington D.C. gave instructions to lobbyists to counter the passage of the Hong Kong Human Rights and Democracy Act. Previously, Hong Congers in D.C. have also received questions from HKETO officers to gather information about members on our team. In the past year, HKETOs have been active in engaging with business leaders, Congressional offices, and government representatives in their private events, including music concerns in both Washington D.C. and New York City. These events often bear the main theme of promoting a prosperous Hong Kong, to whitewash the human rights abuses committed by the Hong Kong government. In general, the offices are now used by the CCP to promote pro-authoritarian narratives and direct influence operations in the United States.

Aside from the U.S.-based HKETOs, the Hong Kong government has been tirelessly organizing global campaigns, events, and summits to appeal to American corporates and tourists. Last November, the government organized a global financial leader summit in Hong Kong, where C.E.O.s of BlackRock, Morgan Stanley and Goldman Sachs flew to Hong Kong to listen to the keynote speech by John Lee, the U.S.-sanctioned Chief Executive of Hong Kong. The participation from these financial institutions, at odds with the U.N. Guiding Principles on Business and Human Rights, took places just miles away from where political prisoners were detained and imprisoned. I struggle to think of other top-tier global financial centers where masses of citizens are put in jail for exercising their fundamental human rights – not in New York City, London, or Tokyo. The SAR government manages to leverage its previous status of being a global financial center to lend the reputation of American corporates to build their stage.

When American corporates conduct businesses and set up headquarters in Hong Kong, some comply and succumb to the government's request to participate in suppressing and silencing certain pro-democracy politicians and organizers. According to HKDC's latest report, "Business NOT As Usual: International Companies in the New Authoritarian Hong Kong," American corporations, such as PayPal and Stripe, have terminated services to Hong Kong pro-democracy parties and groups. Currently, people in Hong Kong cannot successfully search for HKDC's account on PayPal, despite it being perfectly accessible and available in the United States.

Additionally, as Hong Kong's open internet access and information privacy is increasingly threatened, it is difficult to guarantee the data privacy of American corporates in Hong Kong.

When American corporates continue kowtow to the Hong Kong government and its repressive measures, there is a disorienting mismatch between the foreign policy direction from the USG and the business decisions made by American corporates.

Recommendations in Relation to National Security

In response to the three HKETOs present in the U.S., Congress should pass the bipartisan legislation, the Hong Kong Economic and Trade Office Certification Act, reintroduced by both the Chair and Cochair of the CECC, together with Sen. Rubio and Rep. McGovern.

Once passed, the legislation would require the President, 30 days after enactment, to certify whether HKETOs in the United States merit the extension of privileges, exemptions, and immunities that they currently maintain. If the President certifies that the HKETOs do not merit diplomatic immunities, the HKETOs will terminate their operations within six months. If the President determines that the HKETOs do merit an extension of privileges, Congress has the authority to offer a disapproval resolution which, if adopted, would force the administration to revoke the privileges enjoyed by the HKETOs. This determination by the President would be required yearly.

Separately, to counter Hong Kong government's intrusive demands made to American corporates, the 118th Congress should also consider the bipartisan Hong Kong Business Integrity and Transparency Act, which was recently introduced in Congress by Rep. Curtis and Rep. Peters.

The bipartisan bill aims to monitor the business environment in Hong Kong in relation to American businesses. It mandates semi-annual reporting from the Department of Commerce on instances of demands for user data, assistance with law enforcement, and content takedowns by the Hong Kong government.

In order to combat the increasing foreign influence conducted by the Beijing and Hong Kong governments through the HKETOs and to monitor Hong Kong government's demands to American corporates, Congress should consider passing the Hong Kong Economic and Trade Office Certification Act and the Hong Kong Business Integrity and Transparency Act in this Congress.

Conclusion

In light of apparent authoritarian characters expressed by the Hong Kong SAR government at home and abroad, it is in the foreign policy and national security interests of the United States to pass and implement the above-mentioned legislations and executive means with regards to paving humanitarian pathways, sanctioning, evaluating HKETOs statuses, and monitoring Hong Kong government's intrusion to American businesses in Hong Kong.

In 2023, when more and more people are put behind bars, people may think Hong Kong has hit its rock bottom, and we can hardly bounce back. What people fail to see is: day by day, Hong Kongers at home and abroad continue to struggle for survival and for a chance to get our

promised freedoms and democracy. We persist because we truly believe basic human rights and democratic values will ultimately prevail. In the decade of increasing aggression expressed by authoritarian dictators, the international community must see the inherent values of having a democratic Hong Kong for the world.

Thank you, Commissioners, for your support in Hong Kong, I hope Hong Kongers can continue counting on you as our dependable allies in our path to democracy.