

**One City, Two Legal Systems: Political Prisoners and the Erosion of the
Rule of Law in Hong Kong
Congressional-Executive Commission on China
Rep. Christopher H. Smith
May 11, 2023**

Good morning, and welcome to this important hearing focusing on political prisoners in Hong Kong, and how the rule of law has eroded substantially in just the past several years, accelerating since the introduction of the National Security Law in June of 2020 – a law that was introduced not by Hong Kong’s legislature, the LegCo, but imposed by the National People’s Congress Standing Committee in Beijing.

That fact tells you how false the “one country, two systems” mantra has turned out to be.

For we no longer have rule *of* law in Hong Kong, but rule *by* law: by laws that are imposed upon the people of Hong Kong by their communist overlords in Beijing.

Of course, as our witness Kevin Yam points out in his written testimony, we still see lawyers and judges “decked out in their British-style wigs and gowns.” But the common law inheritance – which is referenced in article 8 of the governing Basic Law of Hong Kong – has been destroyed, notwithstanding the residual pomp and ceremony.

It is all just Gilbert-and-Sullivan-esque playacting, the model of a modern Major-General having been replaced by the Lord High Executioner.

For now the outcome of trials for violation of the National Security Law are a foregone conclusion, with Secretary for

Security Chris Tang boasting just last month of a [100 percent conviction rate](#) in cases concerning national security.

And what are these violations of the National Security Law?

Consider the case of a Hong Kong university student, Lui Sai-yu who pled guilty to a charge “incitement to secession” for running an instant messaging channel that advocated Hong Kong independence.

He was sentenced by District Court Judge Amanda Woodcock to five and a half years in prison for the violation of the NSL being of a “serious nature.”

To add insult to injury, Lui pled guilty to benefit from the common law practice of reducing a sentence by one third if the defendant pleads guilty. While the judge initially sought to

comply with that precedent, the prosecution objected, and the judge only shaved six months of the sentence. In other words, a five year prison sentence for a university student engaging in free speech.

Amanda Woodcock was also the trial judge who sentenced Jimmy Lai, whose son Sebastien we shall hear from today, for [“inciting others to knowingly participate”](#) in a banned Tiananmen Square anniversary vigil. This of course is separate from the five-year nine-month “lawfare” sentence he was already serving, which Sebastien can tell us more about, or his upcoming trial for sedition under the National Security Law.

There should be consequences for judges like Amanda Woodcock who are complicit in the dismantling of the rule of

law in Hong Kong and who bow to the dictates of the Chinese Communist Party.

In tandem with this hearing, our staff has produced a report on the role played by Hong Kong Judges in Rights Violations under the National Security Law, which I would urge all of us to read.

Just as we have sanctioned so-called judges in Venezuela and Iran for their undermining constitutional government and participating in show trials, so too should someone like Amanda Woodcock, who is a judge in name only, be sanctioned for undermining the rule of law and, indeed, the judiciary.

Another judge who should be sanctioned, in my opinion, is District Court Judge Kwok Wai-kin. Judge Kwok was the judge who sentenced five speech therapists to 19 months in prison

for publishing three allegorical children's books about sheep being harmed by wolves with "seditious intent."

Shocking.

There is actually one item in the judges sentence that I actually agree with, however: when the defendants sought to argue that "one country two systems" meant that a distinction exists between the People's Republic of China and Hong Kong, Judge Kwok berated them, saying that it is "morally wrong" to say that "Hong Kong and PRC are separate."

In this, Judge Kwok is correct: the distinction between the PRC and Hong Kong has been obliterated.

That is the reason why I have introduced in the House, along with Ranking Member McGovern, and Senator Rubio and

Senator Merkley in the Senate, the Hong Kong Economic and Trade Office Certification, or HKETO, Act, HR 1103.

I see no reason why Communist China should have three additional consular outposts in the United States, as Hong Kong no longer is distinct from the mainland.

Indeed, as our witness Anna Kwok will testify, these Economic and Trade offices are collecting information about members of her group, the Hong Kong Democracy Council, and other democracy activists.

I thus call on my colleagues to join as cosponsors of HR 1103, and I ask that a letter from various Hong Kong NGOs calling for markup and passage of HR 1103 be entered into the record.

Finally, I would note that American businesses have now been put on notice that rule of law in Hong Kong is dead.

Just as mainland China has political prisoners such as Guo Feixiong– who incidentally is facing a sham trial for “subversion of state power” – Ding Jiayi and Gao Zhisheng – so too Hong Kong has political prisoners like Jimmy Lai, Gwyneth Ho, and Chow Hang-tung.

And if you think businesses in Hong Kong are not the next target, just look across the border and see what happened two weeks ago to [Bain & Co.](#), whose offices were raided by Chinese authorities in Shanghai.

We too are going to look closely at the actions of American companies like PayPal and Stripe, which as one of our witnesses

will testify, are terminating services to pro-democracy groups in Hong Kong. We want to ask them why.

And we are also going to look at the role played by Tik Tok in interfering with the advertising and playing of the documentary “The Hong Konger: Jimmy Lai’s Extraordinary Struggle for Freedom.”

This episode was detailed in a written submission by Fr. Robert Sirico from the Acton Institute, which I ask be entered into the record, along with a submission by Sunny Cheung, one by the Committee for Freedom in Hong Kong Foundation, and one by the legal team representing Jimmy Lai and Sebastien Lai.

With that, I now yield to my esteemed colleague and co-chair of this Commission, Senator Merkley.