



October 19, 2021

Sunny Cheung

Advisor, Hong Kong Democracy Council (HKDC)

Nominee, 2020 Hong Kong Pro-democracy Primaries

Written Testimony before the

Congressional-Executive Commission on China (CECC)

Hearing on

“Protection from Persecution:

Establishing Humanitarian Pathways for Hongkongers and Uyghurs”

Chairman Merkley, Co-Chairman McGovern and Members of the Commission,

Thank you for your kind invitation. It is an honor to be invited again to testify and tell you the stories of Hong Kong. On behalf of freedom-loving Hongkongers, I would like to thank the Commission’s unyielding support towards Hong Kong over the years, especially your previous commitment on promoting the Hong Kong Human Rights and Democracy Act, the Protect Hong Kong Act, and other initiatives that considerably benefited Hongkongers.

Two years ago, I was in the same Senate office building with my dearest friends, Joshua Wong and Denise Ho, to explain the summer uprising of Hongkongers in 2019. Joshua's life changed within two years. He is now behind bars because of his active role in the movement, facing more than five charges, including one under the notorious National Security Law (NSL) for which the maximum sentence is life imprisonment. Reputable vocal artist Denise Ho, on the other hand, has been severely and unjustly reprimanded by pro-Beijing mouthpieces due to her huge influence and participation in the movement, and thereby living on the edge of being prosecuted.

As for me, I am now in exile in the US and a wanted figure by the Hong Kong government due to my participation in the peaceful June Fourth Candlelight Vigil, the 2020 Pro-democracy primary election and international advocacy. Recently, the Ministry of the Foreign Affairs of the PRC issued a fact sheet addressing the US's interference in Hong Kong. Just like Chairman Merkley and Co-chairman McGovern, I was also named specifically and denounced by the PRC's Foreign Ministry in the fact sheet twice. If I was told two years ago that pro-democracy leaders in Hong Kong would be either in jail or in exile, I would not have believed it as Hong Kong had long been politically different from the PRC. When it was clear that this was a false belief, I fled Hong Kong and am now seeking asylum in the US. I live in the hopes of returning to my motherland one day, but in reality, my chances of going back without being prosecuted are slim to nothing.

I was the lucky few who escaped the political purge, encompassed with countless hardships that are worthwhile to mention.

Background

To talk about my experience, one has to first be aware of the change in nature of the movement, from the original anti-extradition protest to an anti-authoritarianism movement. As many members in this Commission are well aware of the background of the 2019 movement, I would like to pinpoint more on what had happened after I testified in the CECC in 2019.

After my last trip to Washington DC in 2019, the political crackdown in Hong Kong has been escalating. Hongkongers are no longer just demanding the withdrawal of the extradition bill but a wider range of political goals such as countering police brutality, fighting for universal suffrage,

etc. As time goes by, Hongkongers fully understand that our fight is not just our fight. We also fight for the freedom and democracy of the world. We are in the front line, countering the aggression of the CCP.

On November 17, 2019, the world was horrified that events were leading up to a Tiananmen Massacre 2.0 in Hong Kong. On that day, the Hong Kong Police Force besieged and stormed the Hong Kong Polytechnic University (HK PolyU) for the sake of seizing control of the students and creating white terror by staging quasi-military actions against civilians. Throughout the siege, more than 4000 canisters of tear gas were fired, and more than 1000 protesters were arrested. First responders and other medical staff were detained by law enforcement forces while providing medical attention to the injured. This tragedy has induced lots of criticism across the globe, decrying the barbarian actions of the Hong Kong government on one hand; and on the other hand, the incident has expedited the US Senate to pass the Hong Kong Human Rights and Democracy Act to show solidarity with the people of Hong Kong.

Regarding that, Hongkongers were thrilled to know that they were not alone. On Thanksgiving Day 2019, I organized a large-scale rally to thank the immediate actions taken by the US Congress and administration. I also invited Chairman Merkley to record a video message for Hongkongers that night where more than a hundred thousand Hongkongers attended and celebrated the passage of the Hong Kong Human Rights and Democracy Act.

What happened in the Hong Kong PolyU and other top institutes are extremely intolerable and became the last straw to escalate a larger discontent. Only the most frenzied autocratic regimes would repress and annex university campuses, a palace of knowledge and truth. The siege provoked a public outcry in Hong Kong and led to a landslide victory of the District Council Election in late November 2019. Hongkongers, even some who previously remained neutral or hedging, chose to exercise their rights and use their ballots to express their outrage and political belief that kowtowing to Beijing and allowing Beijing to take control over Hong Kong would not be an option for this city. To note, this District Council election is arguably tantamount to a de-facto referendum that the pan-democrats won the overwhelming majority in the council. Democratic candidates unprecedentedly secured almost 90% of the 452 district council seats

which is unseen in Hong Kong's history. After months of protest, this success hugely bolstered the morale and momentum of the democratic uprising.

The electoral victory irritated and deeply disturbed Beijing in many ways. One of the consequences is to speed up the imposition of the National Security Law to tighten the CCP's grip on Hong Kong. More importantly, the triumph led to another new attempt from the pro-democracy camp in Hong Kong – a large-scale primary election. Based on the result of the District Council Election, pan-democrats intended to aim higher in the upcoming Legislative Council Election (LegCo) and planned to dominate the LegCo for the first time in history, expelling pro-Beijing forces from the legislative branch. At this moment, notably, two forms of political contestation have appeared: non-institutional protest and institutional resistance which both are essential for maintaining the movement.

In the early 2020, the outbreak of the COVID-19 unfortunately created a room for many autocratic regimes in the world to repress activism and civic society in the name of public health and epidemic prevention. The Hong Kong government also deployed a Public Order Ordinance to prohibit all public protests and criminalize the freedom of assembly. Therefore, the pro-democracy camp has another reason to focus more on institutional resistance. To unite the bloc and increase the likelihood of winning the majority of the LegCo, a primary election within the camp was introduced.



In June 2020, an electoral alliance was formed among Joshua Wong, Nathan Law, Gwyneth Ho, Lester Shum, Eddie Chu, Tiffany Yuen and I to participate in the primary election and compete for the nominee spot to represent the whole Hong Kong pro-democracy camp. While many traditional lawmakers from the Democratic Party and Civic Party participated, young dissidents from the rising localist group such as Owen Chow, Fergus Leung, Sam Cheung, Wong Ji Yuet, Ventus Lau, Frankie Fung, Wong Pak Yu, etc also joined to fight for the support of the general public. Since the primary election has a very keen participation from candidates who come from different age-groups, backgrounds and ideologies, the primary election is being considered as a highly representative campaign that attracted many Hongkongers to support the primary election.



On July 12, 2020, two weeks after the NSL was imposed, more than 600 thousand Hong Kong people historically voted in the primary election to express their support to activists and tell Beijing that Hong Kongers do not fear.

I was one of the nominees who emerged victorious in the record-breaking primary election. Unfortunately, the Chief Executive, Carrie Lam, issued a strong warning to the candidates and

organizers of the primaries, saying it was subversive of them to vow to seize control of the legislature and vote down key government proposals. The Beijing Liaison Office in Hong Kong also condemned the primary election by saying it was a serious provocation to the current electoral system. From this, we can argue that Beijing is afraid of a real democratic election and is tremendously concerned about the possibility of pan-democrats seizing more than half of the seats in the LegCo. By that time, pan-democrats can exert more pressure on the Hong Kong government by having the power to ban or trim the financial budget of the whole government.

Under this kind of immense pressure, as well as my previous international advocacy works, I realized that I very well could be one of the top targets on the list when the political purge was carried out.

On August 14, 2020, I fled Hong Kong under a desperate situation. It was the most painful decision I have ever made in my life. The morning I left home, I was being followed and monitored by a group of national security police and this coincidentally matched with the arrest of Jimmy Lai a few days prior. I decided to leave instantly without having an opportunity to say goodbye to my parents, friends and companions like Joshua, Lester and Gwyneth. Worse still, after I left Hong Kong, I publicly announced severance with my parents to keep them safe and protect them from the harassment of the Hong Kong government.

In hindsight, I may have made the correct decision to leave Hong Kong. In January 2021, the Hong Kong government arrested every single one of the 53 participants in the primary election under the National Security Law, accusing them of subverting the regime. If I had been in Hong Kong, I would have been arrested as well. You may think that I feel relieved for dodging the bullet, but the truth is, I can hardly feel joyful when all of my friends are now in jail. It is even harder to feel any relief when the civic society in Hong Kong is being repressed by an autocratic and violent machine with unmatched state power. The mass arrest is a fatal blow to the activism in Hong Kong. It has almost eradicated the whole pro-democracy camp in Hong Kong. This plight ostensibly exemplified that Xi Jinping is determined to reveal his true intentions and deter the democratic movement in Hong Kong in order to increase his own power. “One Country Two Systems” is no more than a lie at this moment. As Joshua Wong said in the CECC hearing in

2019, he was extremely worried that Hong Kong was approaching the “One Country One System”, and now the fear has already become a reality.

According to the statistics provided by the Bureau of Security of HKSAR, more than ten thousand people were arrested in the movement, with 40% being students. On top of that, almost three thousand people are being further charged and one third of them are students. At least, 154 individuals have been arrested under the NSL and were not offered bail. These numbers depict that the situation of Hong Kong is continuously deteriorating. The scale of political persecution is unparalleled and is not only limited to famous politicians. In general, it is of paramount importance for the US government to rescue as many dissidents as possible from Hong Kong.

Furthermore, I would like to address the recent crackdown in Hong Kong to contend that more humanitarian pathways are needed from the US government.

a) Journalists

Numerous incidents in the past months demonstrate that Hong Kong authorities are prepared to use or have been using criminal penalties against Hong Kong journalists. This includes arresting Apple Daily’s management under the NSL, labeling newspaper articles as a threat to national security, and muzzling critical coverage of police misconduct or government policies. The use of NSL criminal charges against the staff of Apple Daily eventually led to its closure in June 2021. Other journalists from Radio Television Hong Kong (RTHK), StandNews or other media have faced persecutions ranging from obstructing police, resisting arrest, or making dishonest and false statements for accessing public information. Recently, the Hong Kong government kept emphasizing the necessity to tackle fake news and so-called inaccurate information in the press industry. This allegation raised concerns that the government does not have clear and transparent standards to define what fake news is. One may sensibly have the fear that the Hong Kong government can arrest journalists more easily by contending that their reports are not accurate enough or too provocative which misleads the public.

b) Student activists

In August 2021, the National Security Department of the Hong Kong Police arrested four student activists from The University of Hong Kong (HKU), my alma mater, accusing them of promoting terrorism thoughts and inciting people to join related hazardous events. Yet, they were merely passing a motion in the student council about commemorating the death of a protester in a tragedy. Besides, the HKU administration did not protect students and even declared to cease any form of cooperation with the student union. Members of the student union were required to move out from their union office and building. There was no one to back them up in the direct confrontation of the regime. Similarly, the student union of The Chinese University of Hong Kong was disbanded in October 2021 because the student union reportedly received instruction from the school authority that if they do not shut down the union by themselves, then they would be in serious trouble.

In fact, since the outbreak of the large-scale pro-democracy protests in 2019, university students have been on the front lines of the resistance against tyranny. However, universities in Hong Kong have been silent or have even acted as accomplices of the autocratic regime through issuing statements in support of the draconian National Security Law, as well as employing executive power to suppress leading elected student bodies. We see this phenomenon as part and parcel of the increasing integration in multiple aspects of universities in Hong Kong with China and the Chinese Communist Party, ranging from growing personal ties with the CCP on the management level to burgeoning collaborations with China under the guise of academic research throughout the post-handover years. Therefore, we cannot rely on the university administration. If teachers and professors would not protect students, and would even actively harm the interest of students, I believe in the long run, the US government should fill in the gap to help this group of student activists to have a safe harbor.

c) Interest groups in the civil society

In light of the white terror generated by the National Security Law, in the first nine months of 2021, fifty pressure and interest groups were dismissed. Although most of them disbanded voluntarily, most groups have allegedly received warnings from the national security department prior to their disbandment, so they have chosen to cease operation to protect the safety of members in these groups. If we look at the list of these groups, we can find many groups disappearing overnight. In this January, a union formed by civil servants was disbanded after officials threatened to penalize and admonish civil servants refusing to pledge loyalty to the government and protect national security. In June, an influential medical professional group, which had a major role in promoting boycotts to counter the government's poor public policy, was dissolved under the pressure of the Hong Kong government.

In this summer, the 612 Humanitarian Relief Fund, the most influential democratic funding which mainly provided legal aid to protesters who face political persecution, told the public that they would also cease operation. Civil Human Rights Front (CHRF), the organizer of the two largest peaceful marches of the 2019 movement, a one-million people march on June 9 and a two-million people march in a week later in June 16, was disbanded since most of its administration are in jail and thus it has to cease operation.

Another significant and world-known organization, Hong Kong Alliance in Support of Patriotic Democratic Movements of China, which held the remarkable annual June Fourth Vigil in Victoria Park, was disbanded too due to the smear from the Hong Kong Police vilifying that the group is an agent of foreign forces and colluding with foreign powers to subvert the regime.

These examples are just the tip of the iceberg elucidating the scenario that many in civil society are threatened by the authoritarian regime, so in order to survive, they have to stay low, disband the organization or even leave Hong Kong to flee from political unrest. Many of them are professionals that can contribute to any country in the world as long as

their expertise and knowledge are recognized. Hence, I believe the US government can also play an irreplaceable role in helping them and recruit their talents to benefit the US society's national interests.

Recommendations

On August 23, 2020, 12 Hong Kongers, aged 16 to 33, were accused of attempting to travel illegally to Taiwan by boat from Hong Kong and were arrested at sea. They were prosecuted by the Chinese government in accordance with Chinese law for illegally crossing the border, some of them are still in the Chinese custody and the public has very limited information about their well-beings. However tragic this incident was, they were not the first, nor would be the last group to risk their lives and flee Hong Kong by boat. Earlier this year, five Hong Kong fugitives were able to settle down in the US with the help of the US and Taiwanese government, and the organization I represent – HKDC, after fleeing to Taiwan from Hong Kong by speedboats. Unlike the 12, the five were fortunate enough to escape the political persecution and receive protection from the US. Although we should not encourage people to use dangerous ways to flee Hong Kong, we still very much understand why people must make this move and seek freedom outside of Hong Kong.

However, without a good humanitarian pathway, people who have successfully left Hong Kong may still suffer from an unstable and poor quality of life. Some of them might need to work illegally, face the threat of thugs and traffickers, or stay in a third country until they can seek asylum and live their life in another country. Therefore, it is necessary to have humanitarian pathways for Hong Kongers to avoid the above from happening.

Hongkongers are very grateful for what the US government has done to help them. Other than passing the important Hong Kong Human Rights and Democracy Act, the US Congress incrementally took more actions such as affirming the Executive branch's decision by enacting the Hong Kong Autonomy Act. It authorizes sanctions against Chinese and Hong Kong government officials who were responsible for the encroachment of Hong Kong's autonomy guaranteed under Sino-British Joint Declaration and the Basic Law. The Act provides the

authority to impose sanctions on financial institutions that conduct transactions with those officials, thus cutting off these Chinese and Hong Kong officials from the American and much of the world's financial system. This August, President Biden also announced the Deferred Enforced Departure (DED) program, allowing eligible Hong Kong residents presently in the US the privilege to stay and the right to be employed for 18 months after the expiration of their visa.

While we are delighted and praise the bipartisan support for Hong Kong, given the severity of Beijing's purge of Hong Kong's autonomy and its civil society, we believe that more should and can be done.

The US Congress should pass a safe harbor policy for Hongkongers. Leaders from both parties, and of various legislative committees, sympathize with the plight of Hongkongers and are in solidarity with them. Yet, we still do not have enough momentum to pass a humanitarian policy designed for Hong Kong. To be clear, what we are seeking is not a broad immigration scheme that allows all Hongkongers to relocate to the US. The legislation we ask you to pass is only to benefit those Hongkongers who are under real political threat, and in a way that aligns with existing US policies and American interests — until the day that the wider US society recognizes that welcoming talents and human capital from Hong Kong can be highly beneficial to the US job market and economy.

And in designing humanitarian pathways for Hongkongers, I think we should consider more than just a channel for applying for asylum. We should consider also established services and protocols to assist asylum-seekers in the long run. It is good to help them survive but it is equally important to help them build a life.

Let me give some examples. Currently, according to figures gathered by US-based Hongkonger groups, around a hundred of Hongkongers are seeking asylum in the US. They often find it difficult a) to communicate with the Border Control when they arrive in the US, b) to be able to reach out to officials who handle their asylum application, resulting in their inability to keep track closely of the progress of their application, c) to pay for the asylum lawyer fee, d) to be

able to purchase insurance when they do not yet have legal status, e) to obtain a work permit and f) to be able to study in the US with affordable tuition fees.

From the above, I sincerely urge US Congress and the executive branch to consider implementing the following measures:

- The Biden Administration should continue to explore and provide humanitarian parole for Hongkongers through executive actions.
- The Department of Homeland Security should publish details of the Deferred Enforced Departure (DED) as soon as possible, particularly since the scheme was already announced two months ago. I would like to ask also that opinions of the Hongkonger community be consulted to ensure that the DED policy does and can benefit them as intended.
- The administration should explore the possibility of setting up a Cantonese-language hot line for Hong Kong asylum seekers. This can facilitate communication, increase transparency, and mutual understanding. As comparison, similar approaches have been introduced in Taiwan and the UK.
- Congress should pass legislation to ease entry into the US for Hongkongers who are targeted for their involvement in activism and the pro-democratic movement. **Bills intended for precisely this purpose are already in existence, in the forms of the Hong Kong Safe Harbor Act and the Hong Kong People's Freedom and Choice Act.** They provide temporary refugee status to Hongkongers who are already in the US, who would face persecution upon returning to Hong Kong. The relevant agencies should have standardized protocols to ensure Hong Kongers are being helped and expedite processing of refugee applications for Hong Kongers at risk.

- Section 3 subsection(b) C (vi) of the Hong Kong Safe Harbor Act proposed that waiver of immigrant status presumption is only given to those formally charged, detained, or convicted for his or her participation in such protests during the period between June 2019, and June 30, 2020. I urge the Congress to strongly consider lengthening the time frame proposed so it could benefit more people who are victims of the crackdown. A fine point to note is that this time frame only covers incidents prior to the enactment of the National Security Law in Hong Kong. However, many Hong Kongers face legal repercussions post enactment of the National Security Law with regards to their participation in said protests. It is highly recommended that the time frame extends to post enactment of the National Security Law.
- To apply the provisions of the 1951 Refugee Convention and the 1967 Protocol to refugees without discrimination.
- Congress and the administration can actively help Hong Kong journalists and other professionals in need to reestablish their career oversea and encourage them contribute their expertise and professional knowledges to the US society.
- Congress and the administration should reallocate and increase resources for the Hong Kong Desk or other related programs, to help asylum seekers to have a smoother transition to live in America, in terms of helping them to lessen difficulties in finding health insurance, legal aid, and tuition fees.
- Congress and the administration should actively work with NGOs, charities, religious groups, private sectors, etc. in the civil society to help young Hong Kong asylum seekers to accommodate their needs and resettle in the US, such as providing language courses and job opportunities. It is essential to promote private sponsorship model and expand community involvement in resettlement by robustly promoting community sponsorship through co-sponsorship programs and private sponsorship. The sooner they settle in, the sooner they can give back to the United States, so they do not just survive but also to build a life.

Conclusion

I am humbled to be here again to testify and speak for Hongkongers in front of this Commission. The fight of Hongkongers will never stop until we can reclaim our homeland. As this Congress has made clear, a free and autonomous Hong Kong is in the national interest of the United States, so the US government should provide a safe harbor for those Hong Kongers who have stood up for liberty and suffered the consequences of safeguarding the liberal values that the US Congress has supported Hong Kong people to pursue. When Hong Kong can hardly be restored to its past glory anytime soon, preserving Hong Kongers' voices and movement, is the best hope for the future rejuvenation of an autonomous Hong Kong.

In Hong Kong, I know there are lots of people who are still finding ways to sustain the spirit and culture of Hongkongers, resisting the invasion of communist authoritarianism. And the Hong Kong diaspora community is doing his best to support Hong Kongers. Here, I believe the US government should be able to help and join our fight too.

I have been in exile for more than a year, but I can still remember vividly the city landscape of Hong Kong, and the names and faces of my dear friends who are now political prisoners. I will not forget them, and I hope the US will not forget them. Hong Kong people have not given up; we stand as one. We belong to the same community, struggling for our right to self-determination. We are determined and will have a bright and better future that is free and democratic.

光復香港 時代革命

This is the revolution of our time. We will liberate our Hong Kong. Please stand with us.

Thank you.