

Testimony before the Congressional-Executive Commission on China

Sunny Cheung

Visiting Fellow, National Sun Yat-sen University

Non-resident fellow, Pacific Forum

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Statement

Introduction

Thank you, Chairman Smith, Co-chairman Merkley and distinguished members. It is an honor for me to submit my testimony to this committee. I want to start by thanking this committee. At the first several months of the 118th Congress, the CECC timely sheds lights on the political prisoners and erosion of rule of law in Hong Kong, helps send a powerful signal to this administration and the world.

I am also grateful for Congress' previous bipartisan passing of the Hong Kong Human Rights and Democracy Act, Hong Kong Autonomy Act and Protect Hong Kong Act. Many of these great bills could not be ratified without the help from this commission, a commission that has shown unyielding supports for Hongkongers for over two decades since its first establishment.

Two years ago, once I fled Hong Kong and came to the U.S., I was invited to testify before this commission to address the daunting human rights situation in Hong Kong and offer policy recommendations for the Congress and the executive branch to establish humanitarian pathways for Hongkongers.

Today, unfortunately, the Congress and the administration can still barely remove the hurdle and respond to the political crackdown in Hong Kong effectively. Despite the efforts made by President Biden by announcing and prolonging the Deferred Enforced Departure (DED) for Hongkongers, people who are in needs can hardly find ways to stay in this country with a permanent status. Given this, it creates a significant gap between the U.S. commitment to deter the Chinese authoritarianism and its ability to assist victims of political persecution under the Chinese Communist Party. This gap highlights the urgent need for more proactive and effective measures to address the issue.

Worse still, the situation in Hong Kong continues to deteriorate, further widening the gap. The most significant National Security Law case, involving 47 individuals, is now being tried. As a nominee in the 2020 pro-democracy camp primaries, I was fortunate enough to avoid the crackdown. However, all of my politically active friends have been imprisoned and charged with

state subversion due to their involvement in the primaries and commitment to fighting for democracy within the legislature. The case of the 47 exposes the harsh reality that the overwhelming majority of political opposition is being eliminated. High-profile political prisoners like them are likely to face retribution from the regime if they persist in voicing their concerns to the outside world. Rights violations within the prison system can be invasive, designed to weaken and wear down one's resolve and determination. From isolating prisoners in individual cells, limiting their freedom, seizing their daily necessities, denying them legal rights, and preventing them from visiting critically ill family members, these incidents only represent a fraction of what is currently happening in Hong Kong. The challenges faced by lesser-known activists can only be imagined if such prominent political prisoners face such difficulties.

Despite the conditions in prison, an even greater issue is that political prisoners rarely find themselves in a fair or favorable courtroom environment. In the case of the 47, dozens of political leaders, many of whom are professionals, have been detained for two years without solid evidence from the prosecution. Last year, the United Nations issued a report sharply condemning the bail conditions under the National Security Law, which fundamentally altered the "presumption of bail" principle. Presently, under the National Security Law, defendants are "presumed not to be bailable," and granting bail is a rare exception. It is worth noting that when the trial finally begins, prosecutors often maintain that they are still gathering evidence, deciding on legal principles and precedents to use, and refusing to disclose critical information about the basis for the charges, creating an extremely unfair situation for the defendants. Political-appointed National Security Law judges tend to interfere, if not assume the role of the prosecutor, by questioning defendants and presuming their guilt. This has become the "new normal" in the judicial sphere under the national security law.

In summary, the treatment of prisoners is deteriorating, with constant surveillance, silencing, and intimidation even behind bars. Furthermore, the burden of proof has been reversed; instead of requiring the prosecution to present a solid case, judges often assert that defendants have failed to prove their innocence.

Taiwan as a safe harbor

In 2020, in response to the changes brought about by the Chinese Communist Party's imposition of the National Security Law, the "Hong Kong Humanitarian Assistance and Care Action Plan" (香港人道援助關懷行動專案) was planned under the instructions of the President Tsai Ing-wen. The "Taiwan-Hong Kong Service Exchange Office" (臺港服務交流辦公室) was also established under the Mainland Affairs Council to handle Hong Kong people's humanitarian assistance and care matters based on its existing legal norms and public-private cooperation while ensuring national security. While there is no official number how many Hong Kong protesters go for this route, groups in the Taiwanese civil society estimate the number reaches over a thousand within the past two years.

Regrettably, Taiwan currently lacks a refugee law, which means that the administration and the Mainland Affairs Council lack experience in dealing with a large volume of asylum applications. Additionally, due to concerns about infiltration by the Chinese Communist Party in Hong Kong, there is no established mechanism for thoroughly and systematically vetting applicants.

Furthermore, recent statistics from Taiwan's Ministry of the Interior indicate a record-breaking increase in the number of Hong Kong individuals granted residence and permanent resident permits. As the number of applications continues to rise, the Taiwan administration must find ways to expedite the processing of applications and effectively screen applicants. Currently, the administration relies heavily on public-private collaboration to verify the identity and information of applicants, with each application handled on a case-by-case basis. The administration first seeks consultation from trusted partners, such as Hong Kong dissidents or Taiwanese individuals familiar with Hong Kong, to confirm an applicant's identity and involvement in the movement. If an applicant's identity or participation cannot be confirmed by anyone, the authority is likely to deny the application. While outsourcing the screening duty to trusted partners may help to alleviate the burden on the authority, it also poses the risk of compromising the screening system if these civil partners lack comprehensive knowledge of the screening process. Therefore, it is essential to increase the manpower and seek assistance from external sources to ensure that the screening process is carried out effectively and efficiently.

I have come to know that many young asylum seekers are eager to join the military as soon as their asylum applications are approved. One of them told me that, after Hong Kong has fallen, Taiwan will be the next target. He wants to serve in the military and defend Taiwan from intimidation and authoritarian expansion. Hence, I believe that aiding more Hongkongers to settle down in Taiwan can be advantageous to Taiwan's national interests and security, and meet tomorrow's needs.

U.S. as a safe harbor

As mentioned earlier, there is a discrepancy between the U.S. commitment to defending democracy and its actual policy implementation to assist freedom fighters. This gap manifests in two primary ways, exposing the inadequacy and inconsistency of the administration's strategies:

In recent years, this commission and numerous other federal agencies have become aware of the threat posed by transnational repression and its impact on intimidating dissidents on American soil. In the past, the Federal Bureau of Investigation (FBI) apprehended several CCP spies suspected of harassing and assaulting Chinese and Hongkonger dissidents. For instance, I was one of those who assisted by providing information to the FBI director's office based on my experiences. The FBI also established a website and hotline to gather information to combat this growing threat. Since the government recognizes that transnational repression by the CCP is pervasive, it should develop policies to assist dissidents in danger consistently. More importantly, it would be logical to create a mechanism that facilitates cross-agency cooperation for helping people in need. Once refugees are confirmed by law enforcement as victims of transnational repression on American soil, the USCIS should have no reason to further delay their asylum applications. Nonetheless, such collaboration is currently missing. People who are in most imminent danger are not the one being recognized and expedited in the system.

Moreover, the administration has shown excessive neutrality in facilitating the acceleration of asylum applications for people. Political refugees are aware that the State Department and other agencies have consistently upheld the policy and narrative of not interfering with USCIS operations. Indeed, there are compelling reasons for supporting this practice. However, I would argue that a more collaborative approach between agencies is necessary.

For years, the U.S. consulate in Hong Kong, the State Department's Bureau of East Asian and Pacific Affairs (EAP), and the Bureau of Democracy, Human Rights and Labor Affairs (DRL) have been gathering information and intelligence on the ground. Their extensive experience stems from their interactions with individuals and organizations in Hong Kong. It would be reasonable for them to communicate with USCIS and recommend an expedition for groups and individuals with whom they are familiar. To note, it is not proposed that other agencies can override the interview process or directly approve applications; such authority should remain within the purview of USCIS. However, these agencies could potentially assist political refugees in securing an opportunity to meet with an asylum officer as soon as possible. This is particularly relevant considering that many Hong Kong refugees are stuck waiting for years to meet an asylum officer at a USCIS asylum office or field office.

Conclusion and policy recommendations

After years of waiting, a brutal fact is that the imperfect U.S. refugee policy for Hongkongers has aided the Chinese Communist Party's (CCP) cognitive operations. Since the historic 2019 Anti-extradition bill Movement, Beijing has aimed to sway Hong Kong and even Taiwanese citizens through the United Front Bureau and official media channels. The objective is to incite conflicts among protesters and undermine public confidence in the U.S. as a dependable ally and global power. For instance, following the U.S. withdrawal from Afghanistan, Chinese counterparts have criticized the moral authority, political determination, and capability of the U.S. In Hong Kong's context, Beijing has asserted that Hong Kong protesters were forsaken by the U.S. after initially receiving support in 2019, insinuating that the U.S. is an unreliable global player.

It is essential to recognize that the existing refugee policy and USCIS issues also contribute to other complexities, and the difficulties are faced by not just Hongkongers but many others. However, the longer these democracy-seeking protesters experience mismanagement and mistreatment within the system, the easier it is for Beijing to disseminate propaganda and misinformation. From Beijing's viewpoint, the U.S. commitment to aiding freedom fighters is nothing more than an empty gesture, with the U.S. often retracting support after urging

individuals to make sacrifices for democracy and human rights. This narrative has gained traction in Hong Kong, or even Taiwan.

Apart from that, the policy itself also fails to respond to the deteriorating human rights situation in Hong Kong. Therefore, a stronger coordination amid agencies in the administration should be embraced, and a transnational effort led by the U.S. is very much necessary.

Policy recommendations are as follows:

1. Congress can pass legislation to ease entry into the U.S. for Hongkongers who are targeted for their involvement in activism and the pro-democratic movement. Bills intended precisely for this purpose already exist in the form of the Hong Kong Safe Harbor Act and the Hong Kong People's Freedom and Choice Act.
2. The administration can consult with the FBI and other relevant law enforcement agencies to help victims of transnational repression to expedite their asylum applications.
3. The administration can establish a mechanism which State Department and other relevant agencies can recommend individuals to secure an interview opportunity with the USCIS as soon as possible.
4. The administration has the opportunity to collaborate with the Taiwanese government and the American Institute in Taiwan (AIT) to provide humanitarian aid, such as addressing VISA issues and providing material and emotional support to relocate political refugees and assist them in settling down.
5. The administration can consider instructing the intelligence community to provide additional assistance in assessing the backgrounds of asylum applicants. This information could be shared and used to assist the USCIS, or broadly the Department of Homeland Security, in expediting certain cases. If the Taiwanese government requires U.S. assistance in screening the backgrounds of Hongkongers, this model could also be applied in Taiwan.

6. The administration can actively work with NGOs, charities, religious groups, private sectors, etc. in the civil society to help 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 expand community involvement in assisting political refugees through public-private collaboration to alleviate the administration burden. The sooner they settle in, the sooner they can give back to the U.S.