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

Thank you for this hearing opportunity. It is an honor for me to stand in solidarity with the frontline activists. I want to thank the Commission members for their critical support for the Hong Kong people and leadership on the Hong Kong Human Rights and Democracy Act and the Protect Hong Kong Act.

Over the past three months, the whole world has witnessed a historic David and Goliath standoff. Against all odds, the Hong Kong people are standing up to the powerful, authoritarian regime in Beijing. In this historic battle, they are not only fighting for the democratic future of 7.4 million Hong Kong people, but they also holding the regional and global frontline on preserving human dignity and rights for all people.

The past “summer of discontent” is in fact part of years of ongoing resistance by Hong Kong people against Beijing’s encroachment on Hong Kong’s autonomy, rights, and freedoms. This peaceful resistance has included mass demonstrations against the proposed Article 23 security legislation (2003), against official brainwashing of the so-called patriotic education (2012), and against the gutting of promises of genuine universal suffrage (2014). After the clearance of the Occupy Central sites in December 2014, democracy activists left a promise inscribed on the concrete sidewalks – We will return. They have kept that promise.

Instead of Beijing’s hoped for movement fatigue, the protests are moving into the 15th week pressing for now five non-negotiable demands, supported by unflagging solidarity and broad participation of diverse sectors of Hong Kong society. The out-of-control lawless actions of the Hong Kong police have only provided mobilization fuel for Hong Kong people to “add oil.”

As Chairman Mao said: “Whereever there is suppression, there will be resistance!”

The Communist Party of China leadership understands and fears this, as highlighted by Xi Jinping’s ramped up invocation of Cultural Revolution “struggle” (douzheng 斗争) terminology.

What actions can the international community and, specifically the U.S. government, take to further support Hong Kong people in what will clearly be a long struggle?

We need to first address the tensions that were baked into the One Country, Two Systems framework, perhaps making One Country into One System an inevitable outcome. Taiwan’s President Tsai Ing-wen’s takeaway from the current political crisis in Hong Kong hits the
nail on the head—not only is One Country, Two Systems not a viable model for Taiwan, but the Hong Kong example proves that dictatorship and democracy cannot co-exist.

**Rule of law and why it matters**

An independent functioning rule of law is essential to protecting rights and preserving Hong Kong’s promised autonomy. However, glaring rule of law deficits in the mainland “rule the country by law” approach (aside from the obvious fact it is *not* a rule of law) have implications for Hong Kong’s rule of law.

- First, the mainland Chinese state Constitution and numerous high-level policy pronouncements legitimize the principle that *subordinates law to the leadership of the Party*. Anyone who challenges or is perceived to challenge the Party’s leadership or disagrees with its policies or criticizes “Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era” (now also enshrined in the state Constitution) runs the risk of criminal prosecution, including for inciting subversion or subversion of state power that carry potential heavy prison sentences. The reintroduction of Article 23 security legislation in Hong Kong will inevitably carry the imprints of the Party’s concept of national security.

Notwithstanding the fact that independence is clearly not one of the five demands of the protests, Beijing’s invocation of *terrorism, splittism, and separatism* (China’s “three evils’ approach”) is also building a foundation for the reintroduction of Article 23 security legislation.

- Second, the demand for *complete loyalty to the Party* from not only Party members, but also from judges, lawyers, teachers, media workers, and every sector of society, guts the independence of the legal profession and media—two key pillars for ensuring a rule of law. But Hong Kong is not the mainland—yet. Despite efforts like the proposed Hong Kong national anthem law and forced loyalty requirements, loyalty, pride, and love cannot be legislated.

- Third, the Party has expanded its control beyond the administrative branch (where Party committees are already installed in government organs at all levels) to the legislative and judicial organs. Most recently, on September 10, 2019, a Central Inspection Group of the Party announced that in addition to its inspection tours of the Supreme People’s Court, Supreme People’s Procuratorate, and Ministry of Justice, it would also work inside the SPC, SPP, and MOJ for two months. Party control of Hong Kong via the Macao Hong Kong Liaison offices is now more direct and public.

It is not surprising then that Hong Kong people, foreign business and the international community were alarmed by the prospect of being subjected to such a “rule the country by law” system—one also marked by rights violations including torture and abuse in detention, forced disappearance, televised confessions, and criminalization of and crackdowns on legitimate exercise of rights.
In addition, developments in Hong Kong have contributed to undermining its long-established rule of law and eroding public faith and confidence in the government, the legal system, and law enforcement, including:

- **Selective arrests and politicized prosecution** of protesters, high profile democracy activists, and legislators, and the imposition of disproportionately heavier sentences related to misuse and application of the Public Order Ordinance.

- **Police acting with impunity** trampling on rights to peaceful assembly, expression and freedom from torture, ill-treatment or abuse. Police misconduct includes use of excessive force in violation of international standards, refusal to show ID cards or other official identification, and increasing reports of torture, abuse, or delay in providing medical attention and restriction to access to lawyers. We see evidence of this impunity every day, in video after video.

- The use of “decoy” undercover police disguised as protestors (initially denied by the authorities), to conduct surveillance, sow distrust, and then participate in crowd control actions and conducting arrests.

- **Concerns regarding the role of mainland police and security forces in cooperation with the Hong Kong police:** For example, in August 2018, the *People’s Daily* announced the establishment of the Greater Bay Area Police Cooperation Mechanism, among Guangdong, Hong Kong, and Macao. Part of or related to this mechanism, the Guangdong’s Public Security Department (gongan ting 公安厅) has conducted training of key Hong Kong police personnel in Guangdong.

- **Concerns regarding potential infiltration by or use of mainland security or police forces on Hong Kong territory** have also been generated by contested videos and reports of use of putonghua or phrases not commonly used by Hong Kong people such as comrade (tongzhi, 同志). and mismatches between a visible police badge belonging to a female officer worn by a male officer.

- The Notice of No Objection has granted the police the legal tool to clamp down on any peaceful protests. Therefore, Hong Kongers face the ridiculous situation where the police can deny application for a letter of no objection filed by a group for a peaceful assembly to protest police violence. More importantly, this misuse of the procedure undermines the right to peaceful assembly under international standards by imposing unduly restrictive administrative requirements on the exercise of the right.

Instead of addressing the rampant police violence and misconduct and misuse of law that is fueling public anger and protests, the Chief Executive has maintained a hard-line echoing Beijing’s law and order rhetoric and economic priorities. She has refused to establish an independent commission of inquiry as demanded by the protesters and in fact recommended by the UN Human Rights Committee in 2013 in addition to its recommendation that there be training for the police. Instead, she is relying on a toothless IPCC fact-finding study exercise, that is woefully inadequate in terms of independence, credibility and even competency.
Why the UN and international human rights standards must be defended

China’s aggressive activism at the UN is undermining international standards, weakening existing human rights mechanisms and processes, and restricting the participation of independent civil society voices. This cuts Hong Kong people (as well as human rights defenders in mainland China, and Tibetan and Uyghur communities) from the key international platform available to press for accountability for human rights abuses by China. Instead of the West’s hoped-for convergence, China is not only not playing by the rules; it is also vocally and persistently asserting a set of relativist criteria that it alone can unilaterally apply. A Chinese official stated at conclusion of China’s 2013 UPR: “What I want to emphasize is that whether the shoes fit, only the person knows. On the human rights situation of China, the people who are most qualified to speak are the people of China.”

With this rhetoric, the party-state conflation of itself, the nation, and 1.4 billion people is then deployed to deflect criticism of China’s rights records and accuse its critics of “hurting the feelings of the Chinese people.” Efforts to raise rights concerns regarding the 1.4 billion wearers of the shoes are attacked as interference with domestic affairs and China’s sovereignty. This rhetorical strategy helps to intimidate, silence, and deflect from accountability of the state; and undermines international standards and processes for monitoring, assessing, and promoting human rights protections.

In addition to this rhetorical strategy, through its membership in the NGO Committee of ECOSOC, China works to block ECOSOC accreditation of any NGO it views as critical of China, and therefore anti-China. GONGOs do not face objections such as the point of order interruptions of Denise Ho’s recent intervention at the Human Rights Council. The intervention last week by Patsy Ho, the representative of the Hong Kong Federation of Women, (an NGO with ECOSOC special consultative status since 2000), is illustrative. She not only defended the SAR government’s handling of the protests and accused the Hong Kong protesters of “child exploitation” and more. Patsy Ho, co-chairwoman and executive director of Macao casino operator MGM China Holdings, is also a standing committee member of the Beijing Municipal Committee of the Chinese People’s Political Consultative Conference.

While the U.S. has strongly criticized the ineffectiveness of the Human Rights Council, its leadership remains influential in the international community and within the UN system to counter these trends.

When China has to rotate off and cannot run for Council membership in 2020, this will be a good opportunity to get traction on key issues such as reforms to the NGO accreditation process and expanding civil society participation. Although China can and will undoubtedly remain active as an observer state, and work through its proxy client states, it will not have a vote and will be more procedurally limited. The U.S. should use its observer status and strengthen alliances with other democratic states to build joint concrete actions and strategies.
In addition, more effective use of international normative statements and recommendations regarding Hong Kong would be constructive to counter Beijing’s vociferous assertions of its sovereignty and accusations of the international community’s “interference.” Some recent examples include: statements of concern by the High Commissioner for Human Rights, and Joint statement by the special procedures.  

**China strategic deployment of its “Discourse power”**

China’s strategic deployment of its “discourse power” (huayu quan 话语权) and Beijing’s narrative of protester violence contributes to disempowering (as intended) the frontline democracy movement’s efforts to get its own story/stories out to the Hong Kong public, people in the mainland, and the international community.

Since the CPC announced its “big external propaganda” project in 2009, China has invested billions to compete with Western media. The key goal then and now is to “constantly enhance the dominance and discourse power in the ideological field” to tell the China story. High-level pronouncements, in particular those by Xi Jinping, emphasize the priority of “enhancing China’s influence and discourse power in regional and global governance.”

In addition to its disinformation campaign, including the egregious use by China Daily on 9/11 of a photo depicting the destruction of the World Trade Towers to warn of terrorist attack by Hong Kong protesters, Beijing is advancing a narrative of violence to frame the Hong Kong protests that is echoed uncritically by international community. Within this frame, the Hong Kong police, protected in full tactical gear, armed with rubber bullets, guns, tear gas, pepper spray, and batons, wielding the coercive power of the state is presented as one “side” of escalating violent clashes with civilian protesters. Hence calls for “both sides” to de-escalate that deflects attention away from police accountability for its excessive use of force in violation of international standards, and its complicity with non-state violence, such as the triad-related attacks in Yuen Long.

More importantly, the narrow violence narrative framing of the situation on the ground is erasing or marginalizing (intentionally) the proliferation of diverse creative and peaceful protest actions by Hong Kong people such as:

- **Students** are participating in class-boycott actions, forming a “human chain” of joined hands, shouting slogans across different campuses, and singing “Do You hear the People sing” during opening ceremony for the academic year when the Chinese national anthem was played. The motto of the school is “Live to Learn, Learn to Live.”
- **Elderly citizens**—“silver-hair” volunteers—have organized “protect the children” actions or marched to support younger protesters.
- **Hong Kong people of all ages and backgrounds** sing together in malls, streets, metro stations, in neighborhood gatherings, “Glory to Hong Kong,” all shared on
proliferating viral videos. And Christians sing “Sing Hallelujah to the Lord” during marches and assemblies.

- A young child leads a call and response —香港人，加油 (Hong Kong people, add oil!) —from a flyover as the stream of marchers pass below.
- Since August, tenants in Hong Kong’s residential estates shout out their windows every night at 10 p.m, protests slogans with calls and responses echoing across different neighborhoods in Hong Kong.
- During the “Hong Kong Way” human chain formed by over 200,000 people stretching over 60 km (37 miles) across the city on August 23, citizens climbed up to the iconic Lion Rock, their cellphones forming an unending line of light in the dark night.
- Since late June, Lennon Walls have appeared all over Hong Kong, in almost every district, and also in communities globally, including Japan, Canada, U.S., U.K., and Australia.
- Last Friday was Mid-Autumn Festival: A bakery shop in Sai Wan made mooncakes with protest slogans in support of Hong Kong citizens and anti-extradition movement.
- In typical creative humorous Hong Kong fashion, Hong Kongers are creating art, such as miniature figurines of protesters, with a life-like accurate details or a Hong Kong version of a Goddess of Democracy.

This is what is happening on the ground. Hong Kong people are practicing democracy and exercising their freedoms for as long as possible. Hong Kongers are making the road by walking it. That is the real revolution already underway.

Thank you again for convening this hearing. I look forward to your questions.
Effective May 1, 2018, the requirement that "legislation must be approved by the party committee" is written into the law for the first time (after the Mao era). See “The Revised Regulations on the Procedures for the Formulation of Administrative Regulations and the Revised Regulations on the Formulation of Rules are promulgated” (修订后的《行政法规制定程序条例》和《规章制定程序条例》公布), Ministry of Justice of the P.R.C., Jan. 17, 2018, http://www.moj.gov.cn/organization/content/2018-01/17/552_113641.html.


14 【9.8 直播實錄】防暴警收隊講：同志齊，同志齊，走得。https://www.youtube.com/watch?v=vP80x5NYb_M

9.8, 2019: Video of police outside of Prince Edward station, one police man said in Cantonese: “同志齊，同志齊，走得!” (around 0:23+); https://twitter.com/TuCaoFakeNews/status/1170859300886966273 September 8, 2019: short video of police coming out of Causeway Bay station, throwing tear gas at a journalist, showing a policeman shouting in putonghua: “左边、左边!” (around 0:22).

15 https://twitter.com/liushihui/status/1138947067504541696 June 12, 2019: Includes partial picture of a policeman with a badge number that corresponds to the record of a female officer.

16 Carrie Lam’s announcement of two more appointments to IPCC contributes to further straining of credibility: Paul Lam is a veteran barrister, former chairman of the Hong Kong Bar Association, who was criticized for his mild stance and general silence during the co-location controversy and wide public concerns about the encroachment of mainland laws on Hong Kong territory. Helen Yu is a retired veteran civil servant who served as a senior consultant for Carrie Lam's election campaign when she ran for the Chief Executive. Yu also openly criticized suggestions for an independent commission of inquiry. Inviting a new international expert to serve on the IPCC special panel for conducting the study on incidents also raises questions. Gerry McNeill, formerly Ontario's Independent Police Review Director, was caught in a scandal involving an independent investigation against a Toronto police officer that was overturned by the Court in January 2019 because McNeill had backdoor undisclosed communications with the police. http://www.thestandard.com.hk/breaking-news.php?id=134228&sid=4.


21 Mr. David Kaye (USA), Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Mr. Michel Forst (France), Special Rapporteur on the situation of human rights defenders; Mr. Clement Nyaletossoi Volue, Special Rapporteur on the right to peaceful assembly and association; Mr. Nils Melzer Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, “China/Hong Kong: UN experts urge China to respect protesters’ rights,” https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24979&.

22 Unofficial translation by HRIC.

23 Unofficial translation by HKIC. In August 2016, Xi Jinping pointed out at the symposium on promoting the construction of the “Belt and Road Initiative”: “[We must] introduce China’s standards, rules and concepts to gradually form a set of multilateral governance rules with Chinese imprints, expand the global partnership network based on our country, and enhance China’s influence and discourse power in regional and global governance.”


25 https://www.youtube.com/watch?v=RkRA60qHg8k.

26 反送中運動 https://www.facebook.com/GoodNeighbour/photos/a.15636223233932137/2095083654119332/.


28 See Stand News compilation of videos of “Glory to Hong Kong” sung in various malls in Hong Kong https://thestandnews.com/politics/睇片-遍地開花-多區市民自發高歌-願榮光歸香港: With English lyrics at:
人參與銀髮族靜默遊行 - 表達長者支持年輕抗爭者

《願榮光歸香港》MV

《願榮光歸香港》version B

昨晚十時-光復香港口號遍各區

香港民主女神像 (Statue of Hong Kong’s Goddess of Democracy):

網民製《香港民主女神像》- 暫放中大.