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Senator Rubio, Congressman Smith, thank you for inviting me to appear at today's hearing, which draws much-needed attention to the plight of the embattled Uyghur community in China. At a time when core human rights principles are being tested in many places around the globe, I deeply appreciate the steadfast commitment the two of you have demonstrated, along with others on this Commission, to shining a spotlight on serious violations of human rights. When I served in the State Department during the first Obama term, I often was summoned to appear before various committees of Congress to discuss problematic countries where we needed to step up our game. While Congressional scrutiny is not a favorite past-time of State Department officials, I valued the constructive prodding during those encounters. You pushed us to do better, and you continue to play this important role.

I am now based at the New York University Stern School of Business, where I direct the [Center for Business and Human Rights](#). I appear here this morning to offer thoughts and recommendations to the Executive Branch, to Congress, and to the business community, on the challenging questions they face in their ongoing engagements with China. I do so hoping to offer a constructive critique of current efforts to engage constructively and in a principled way with China, and to make suggestions for going forward.

First I want to offer a little context. I teach business students about human rights, and in my first class every semester, I discuss the reduction of global poverty as an important metric of human rights. According to the [World Bank](#), in 1981, 88% of the people in China were living in extreme poverty, surviving on less than \$1.25 a day. Today, that number has dropped below 5%.¹ This dramatic progress is largely attributable to China's impressive economic growth, about which the Chinese people are understandably proud. An important factor fueling this growth has been the government's embrace of a market-based system and its move away from the economic orthodoxy of its past.

Unfortunately, the Chinese government has refused to show a concomitant willingness to reform its political system. The gross abuses of human rights we see today against the Uyghurs in Xinjiang and the efforts to crush democratic freedoms in Hong Kong are two striking examples of this resistance. Since Xi Jinping came to

¹ <http://bit.ly/32ph7R3>

power, the human rights situation in China has grown [worse](#), and in some ways dramatically so.²

Others on this panel will describe the desperate situation of the Uyghur population in Xinjiang in greater detail. They have faced systematic discrimination and persecution by the Chinese government for [many years](#).³ Recently, the scope and scale of these violations have escalated dramatically.⁴ The imprisonment of more than a [million](#) Uyghurs today⁵ makes it the most egregious example of arbitrary detention anywhere in the world. Thousands more endure [forced labor](#),⁶ and virtually everyone in that community is subject to [pervasive surveillance](#) and isolation from the outside world.⁷ The response of the international community has not been commensurate with the extent of these gross human rights violations, which is why this hearing is so important.

In the last few weeks, some progress may have been made on US-China trade. If a preliminary agreement is consummated, and this is still far from certain, the pact would obligate China to purchase \$40 to \$50 billion worth of American agricultural products annually. It also would strengthen Chinese protections for American intellectual property and give US financial services companies greater access to Chinese markets. In exchange, the US government would forgo imposing additional tariffs on \$250 billion of Chinese products being imported to the United States.

On a different track, in the last several weeks, various US government agencies have imposed new sanctions on China and companies doing business there related to the government's mistreatment of the Uyghurs. On [October 1st](#), the US Commerce Department added 28 Chinese organizations to the so-called Entity List, preventing US companies from selling their products without US government approval.⁸ These [entities](#) were found to have been "implicated in human rights violations and abuses in China's campaign targeting Uyghurs and other predominantly Muslim ethnic minorities" in Xinjiang, and more specifically, in "China's campaign of repression, mass arbitrary detention, and high-technology surveillance."⁹ The list includes both [government entities and private companies](#) that provide surveillance and artificial

² <https://www.hrw.org/world-report/2019/country-chapters/china-and-tibet>

³ <https://www.bbc.com/news/world-asia-china-26414014>

⁴ <https://nyti.ms/2LihrcV>

⁵ <https://www.reuters.com/article/us-china-rights-un/u-n-says-it-has-credible-reports-that-china-holds-million-uighurs-in-secret-camps-idUSKBN1KV1SU>

⁶ <https://www.nytimes.com/2018/12/16/world/asia/xinjiang-china-forced-labor-camps-uighurs.html>

⁷ <https://www.hrw.org/report/2018/09/09/eradicating-ideological-viruses/chinas-campaign-repression-against-xinjiangs>

⁸ <https://www.nytimes.com/2019/10/07/us/politics/us-to-blacklist-28-chinese-entities-over-abuses-in-xinjiang.html>

⁹ <https://www.commerce.gov/news/press-releases/2019/10/us-department-commerce-adds-28-chinese-organizations-its-entity-list>

intelligence technology.¹⁰ According to Professor [Julian Ku](#) of Hofstra University, this may be the first time the Entity List has been used as a penalty for human rights violations.¹¹

Separately, the [US Customs and Border Protection](#) agency issued five Withhold Release Orders banning products that were produced using forced labor. One company on the list was the Hetian Taida Apparel Company in Xinjiang, which US officials determined was making apparel products using prison or forced labor.¹²

Reflecting similar human rights concerns, the State Department on October 8th announced [visa restrictions](#) on unnamed Chinese government and Community Party officials “implicated in the detention or abuse of Uyghurs, Kazakhs, or other members of Muslim minority groups in Xinjiang.”¹³ The State Department cited the Chinese government’s “highly repressive campaign” against Uyghurs and other Muslim minority residents of Xinjiang, and made specific reference to the “mass detentions in internment camps; pervasive, high-tech surveillance; draconian controls on expressions of cultural and religious identities; and coercion of individuals to return from abroad to an often perilous fate in China.”¹⁴ By imposing these three categories of sanctions, the US government is signaling strong condemnation of the ongoing repression of the Uyghurs.

Adding rhetorical force to the administration’s various actions, individual officials have spoken out about mistreatment of the Uyghurs. Secretary of State Pompeo in particular has condemned the persecution of the Uyghurs, most recently at last month’s UN General Assembly. Secretary Pompeo told [reporters](#): “I want to make clear that China’s repressive campaign in Xinjiang is not about terrorism. It’s about China’s attempt to erase its own citizens. We call on all countries to resist China’s demands to repatriate the Uyghurs.”¹⁵ At a [UN side event](#), Deputy Secretary of State John Sullivan condemned the Chinese government’s systematic campaign “to stop its own citizens from exercising their unalienable right to religious freedom.”¹⁶

But sanctions and strong public admonitions have been undermined by the administration’s broader failure to prioritize human rights as a consistent element of US foreign policy. The administration’s continued unwillingness to acknowledge the

¹⁰ <https://fortune.com/2019/10/08/china-ai-us-entity-list/>;
<https://www.nytimes.com/2019/10/07/us/politics/us-to-blacklist-28-chinese-entities-over-abuses-in-xinjiang.html>

¹¹ <https://www.nytimes.com/2019/10/08/business/china-human-rights-technology-xinjiang.html>

¹² <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-detention-orders-against-companies-suspected-using-forced>

¹³ <https://www.state.gov/u-s-department-of-state-imposes-visa-restrictions-on-chinese-officials-for-repression-in-xinjiang/>

¹⁴ Id.

¹⁵ <https://www.reuters.com/article/us-usa-china-un/pompeo-urges-world-to-resist-chinas-demands-to-repatriate-ethnic-uyghurs-idUSKBN1W70KX>

¹⁶ <https://www.state.gov/deputy-secretary-john-j-sullivan-remarks-at-the-human-rights-crisis-in-xinjiang-event/>

role of Saudi Arabia's Crown Prince in the Khashoggi murder last year is one glaring [example](#) among many.¹⁷ Without a consistent commitment to promoting human rights norms, the administration is far less persuasive in its efforts to promote compliance with these international standards in China and elsewhere.

This reluctance starts at the top. Time and again, the President has resisted talking about human rights in general, and about Chinese government violations in particular. In September, [CNN reported](#) that the President had assured President Xi that he would not raise human rights issues relating to Hong Kong while trade talks are ongoing.¹⁸ The effects of this promise rippled through the administration: Kurt Tong, the then-US Consul General to Hong Kong and Macau, was directed by the State Department to cancel two speeches he planned to give in Washington discussing the human rights situation in Hong Kong.¹⁹ On August 1st, when he was asked by reporters to comment on the situation in Hong Kong, the President demurred saying only that the people of China and Hong Kong will "have to deal with that themselves. They don't need advice."²⁰

The President's cavalier and dismissive comments about human rights in China and other places are now all too familiar. At the [Group of Seven summit](#) last month, he referred to Egyptian President Sisi as "my favorite dictator,"²¹ and before their [bilateral meeting](#) in New York praised him as "a real leader" who has "done some things that are absolutely amazing."²² He [recently characterized](#) Saudi Crown Prince Salman as a "friend," saying he's done "a spectacular job."²³ He has [pledged](#) "complete support" to Brazilian President Jair Bolsonaro, saying he is "doing a great job for the people of Brazil...in all respects."²⁴ He still refuses to condemn the Russian occupation of Crimea and Russia's continued interference in Ukraine's democratic system and its support of armed insurgent forces in the Eastern Ukraine. He has [praised](#) Vladimir Putin as a "terrific person."²⁵ And despite their tumultuous relationship, the President has [referred](#) to Kim Jong Un as being "very talented."²⁶ The list goes on and on.

¹⁷ <https://www.bbc.com/news/world-us-canada-47182567>

¹⁸ <https://www.cnn.com/2019/10/04/politics/trump-xi-hong-kong-protests/index.html>

¹⁹ Id.

²⁰ Id.

²¹ <https://www.wsj.com/articles/trump-awaiting-egyptian-counterpart-at-summit-called-out-for-my-favorite-dictator-11568403645>

²² <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-president-el-sisi-egypt-bilateral-meeting-new-york-ny/>

²³ <https://www.wsj.com/articles/trump-praises-saudi-crown-prince-for-doing-a-spectacular-job-11561778810>

²⁴ <https://www.reuters.com/article/us-brazil-environment-usa/trump-pledges-complete-support-for-brazils-bolsonaro-idUSKCN1VH10V>

²⁵ https://www.cnn.com/politics/live-news/g20-june-2019-intl-hnk/h_0ac0caf83fde21799a2600d58fedea54

²⁶ https://www.washingtonpost.com/politics/dictator-envy-trumps-praise-of-kim-jong-un-marks-embrace-of-totalitarian-leaders/2018/06/15/b9a8bbc8-70af-11e8-afd5-778aca903bbe_story.html

The administration also continues to turn its back on, and even undermine, multilateral approaches to human rights. The Uyghur crisis provides a salient case in point. In February, ambassadors from 22 countries signed a [letter](#) to the president of the UN Human Rights Council, calling on China to end its mass detention and surveillance of the Uyghurs in Xinjiang.²⁷ Australia, Canada, Japan, Britain, France, Germany, and Switzerland were among the signatories, but the [United States was not](#).²⁸ As a result of the American withdrawal from the Human Rights Council, we are unable to lead multilateral efforts under the auspices of that body. Instead, no government was the principal sponsor of this effort, a fact that no doubt weakened the effect of the statement itself. This was a missed opportunity to apply global pressure to the Chinese government, a casualty of the administration's go-it-alone approach to diplomacy. The US government can and must do better, and Congress needs to pressure the administration to take more decisive action.

Congressional oversight, such as what you're doing today, can have a real effect. On May 9th of last year, Senator Rubio and Representative Smith sent a [letter](#) to the US Commerce Secretary demanding answers about the sale by US companies of surveillance technology used by Chinese security forces.²⁹ On August 28th of 2018, the chairs sent a [bipartisan letter](#), signed by 17 legislators, urging swift action by the executive branch in response to the systematic discrimination and arbitrary detention of Turkic Muslim minorities.³⁰ Both letters were no doubt instrumental in achieving the recent sanctions and exemplify one of the ways Congress can hold the administration accountable. More recently, the Senate passed the [Uyghur Human Rights Policy Act of 2019](#), calling on bodies within the US government to prepare reports on China's treatment of the Uyghurs.³¹ The [Uighur Intervention and Global Humanitarian Unified Response Act](#) has also been introduced in the House, relating to sourcing restrictions and export controls.³² The adoption of some form of this legislation will be an important step in bringing attention to the atrocities occurring in Xinjiang and will help to ensure a thoughtful and cohesive response by the US government.

US companies doing business in China also have a very important role to play with respect to human rights, but to date, their record has been uneven. The allure of doing business in and with China is obvious. According to the [World Bank](#), the Chinese consumer market is now the third-biggest in the world after the US and the EU.³³

²⁷ <https://www.reuters.com/article/us-china-xinjiang-rights-exclusive/exclusive-west-japan-rebuke-china-at-un-for-detention-of-uighurs-idUSKCN1U51E1>

²⁸ <https://www.cnn.com/2019/07/11/asia/xinjiang-uyghur-un-letter-intl-hnk/index.html>

²⁹ <https://www.cecc.gov/media-center/press-releases/chairs-ask-commerce-secretary-ross-about-sale-of-surveillance-technology>

³⁰ <https://www.cecc.gov/media-center/press-releases/chairs-lead-bipartisan-letter-urging-administration-to-sanction-chinese>

³¹ <https://www.congress.gov/bill/116th-congress/senate-bill/178>

³² <https://www.congress.gov/bill/116th-congress/house-bill/1025?q=%7B%22search%22%3A%5B%22uyghur%22%5D%7D&s=1&r=5>

³³ https://data.worldbank.org/indicator/NE.CON.PRVT.CD?most_recent_value_desc=true&year_high_desc=true

China also continues to be the [largest global manufacturer](#) of electronics, apparel, toys, and many other products.³⁴ Given these economic realities, global companies will continue to look for opportunities to do business in China. All too often, US companies have opted to pursue their economic interests, while paying insufficient attention to how their words and actions affect the broader human rights debate.

Last week's confrontation between the National Basketball Association and the Chinese government is the latest example. After Daryl Morey, general manager of the Houston Rockets, [tweeted](#) his support for human rights and democracy activists in Hong Kong,³⁵ the NBA released starkly [conflicting statements](#). The English-language version expressed support for Moray's freedom of speech while recognizing that his tweet had offended friends and fans in China; a second statement in Mandarin, posted on the NBA's Chinese social media account, said the league was "extremely disappointed in the inappropriate comment."³⁶ NBA Commissioner Adam Silver subsequently reiterated the league's commitment to [free speech](#).³⁷ As he did so, a Chinese e-commerce platform, a sporting goods brand, and a sports news website all [suspended access](#) to goods and coverage related to the Rockets, and Chinese Television [announced](#) it would not broadcast NBA exhibition games scheduled to be played in China.³⁸ Lost in the debate was the underlying question of how human rights in Hong Kong are being seriously undermined by the Chinese government.

There are special responsibilities for US technology companies operating China. The Chinese government continues to use advanced technology to stifle dissent and to intrude on the privacy of its people. Chinese authorities have attempted to justify this mass surveillance as a tool to fight [terrorism](#),³⁹ but most of what the system tracks has no relationship to threats of terrorism or extremism. A recent [Human Rights Watch](#) report about the Chinese government's "Strike Hard Campaign" in Xinjiang highlights the risks. In that region, the government has used what it calls the Integrated Joint Operations Platform (IJOP) to perform sweeping surveillance of the Uyghurs and other members of the Turkic Muslim minority.⁴⁰ This [app](#) collects huge amounts of personal information, including blood type and other physical characteristics, education level, and religious and political affiliations. The IJOP also reports on activities the government deems suspicious, such as the use of encrypted communication tools like WhatsApp and Viber.⁴¹

³⁴ <https://www.brookings.edu/research/global-manufacturing-scorecard-how-the-us-compares-to-18-other-nations/>

³⁵ <https://www.washingtonpost.com/sports/2019/10/07/nba-china-tweet-daryl-morey/>

³⁶ https://www.marketwatch.com/story/heres-how-the-nbas-apology-was-different-in-china-and-the-us-2019-10-07?link=MW_latest_news

³⁷ <https://www.washingtonpost.com/sports/2019/10/07/nba-china-tweet-daryl-morey/>

³⁸ https://www.marketwatch.com/story/heres-how-the-nbas-apology-was-different-in-china-and-the-us-2019-10-07?link=MW_latest_news

³⁹ <https://slate.com/news-and-politics/2019/08/china-terrorism-xinjiang-repression-islam.html>

⁴⁰ <https://www.hrw.org/report/2019/05/01/chinas-algorithms-repression/reverse-engineering-xinjiang-police-mass-surveillance>

⁴¹ <https://www.hrw.org/video-photos/interactive/2019/05/02/china-how-mass-surveillance-works-xinjiang>

The IJOP surveils and collects data on every person in Xinjiang, tracking their movements by monitoring the location of their phones, ID cards, and vehicles. Information collected through the IJOP system is used as a basis for house arrest or more formal detention. Failure to carry a smart phone can itself be a basis for detention. In some reported cases, US companies and investors have played a role in this system. Until it was publicly reported in February, Massachusetts-based Thermo Fisher [sold](#) DNA sequencers directly to authorities in Xinjiang for genetic mapping.⁴² California-based [Amax](#), which specializes in high-performance computing for deep-learning applications, partnered with Hikvision—now on the Entity List, as well. Hikvision is one of the world’s [largest producers](#) of facial recognition and surveillance equipment,⁴³ and the company has won several security-related contracts from the Chinese government in Xinjiang, totaling [\\$260 million](#).⁴⁴ One contract was for a "social prevention and control system" [feature](#) on tens of thousands of cameras.⁴⁵

Some US technology companies have weighed the risks of doing business in China and declined to pursue aspects of their business there. Google, for example, did the right thing in 2010 when it [withdrew from China](#) in the face of extensive government interference with free expression.⁴⁶ To date, the major internet platforms, [Google](#),⁴⁷ [Facebook](#)⁴⁸ and Twitter have limited their businesses in China given the government’s poor record on free speech and privacy.⁴⁹ Microsoft has been an [industry leader](#) in crafting safeguards relating to facial recognition.⁵⁰ The company even [took down](#) its public facial recognition database when reports surfaced that Chinese companies, including Megvii and SenseTime, both newly-added to the Entity List, were using the database to train their facial recognition systems.⁵¹

But it was disappointing to see Apple remove pro-democracy songs from its Chinese music store,⁵² and [Taiwan’s flag](#) from its iOS emoji library for users in Hong Kong and Macau.⁵³ Apple’s Chinese iCloud partner, Guizhou-Cloud Big Data, recently made a

⁴² <https://foreignpolicy.com/2019/03/19/962492-orwell-china-socialcredit-surveillance/>

⁴³ <https://foreignpolicy.com/2019/03/19/962492-orwell-china-socialcredit-surveillance/>

⁴⁴ <https://www.afp.com/en/news/15/chinas-blacklisted-ai-firms-what-you-should-know-doc-11b4wb1>

⁴⁵ <https://www.afp.com/en/news/15/chinas-blacklisted-ai-firms-what-you-should-know-doc-11b4wb1>

⁴⁶ <https://www.theguardian.com/technology/2010/jan/12/google-china-ends-censorship>

⁴⁷ <https://www.google.com/about/datacenters/location/>

⁴⁸ <https://www.facebook.com/notes/mark-zuckerberg/a-privacy-focused-vision-for-social-networking/10156700570096634/>

⁴⁹ <https://www.theverge.com/2019/10/7/20902947/nba-rockets-daryl-morey-hong-kong-protests-tweet-internet-speech-censorship-china>

⁵⁰ <http://bit.ly/35vEzxW>

⁵¹ <https://www.ft.com/content/7d3e0d6a-87a0-11e9-a028-86cea8523dc2>

⁵² <https://www.fastcompany.com/90332656/apple-removed-this-pro-democracy-music-in-china>

⁵³ <https://www.bloomberg.com/news/articles/2019-10-08/apple-pulls-taiwanese-flag-emoji-from-iphones-in-hong-kong>

[deal](#) to move user data to servers operated by state-run China Telecom.⁵⁴ Apple's also [removed](#) the HKMap.Live app, thereby depriving Hong Kong citizens of the capacity to track online the sites of demonstrations and police actions.⁵⁵ All of these actions seem guided by the company's desire to preserve its status with the Chinese government. Apple maintains that they are simply following local law.⁵⁶ This alone is not a tenable path. Instead, Apple and other technology companies need to develop company-endorsed human rights policies that address privacy, free expression and other rights issues, using international norms as a baseline. Such policies will help businesses make these challenging decisions in a more consistent and principled manner.

Investors must also face these questions head on. A range of US investors have been providing capital to Megvii and SenseTime. According to one [report](#), among US-based institutions with stakes in these two Chinese firms, "public pension funds are the largest committers of capital."⁵⁷ Megvii representatives told *Buzzfeed News* that the company does not "have any access to the IJOP platform or the [Chinese] national ID database."⁵⁸ And while the company also assured *Buzzfeed* that it requires clients not to use its technology for the infringement of human rights, it did not provide details of how it enforces this commitment.⁵⁹ US investors need to adopt more stringent safeguard to avoid contributing capital to Chinese companies that are involved in surveillance and related data-gathering, especially in Xinjiang.

China and the US compete fiercely for economic and political influence in Asia, Africa, and elsewhere. But the two the countries—including their companies and investors—must find ways to interact that allow for peaceful, fruitful competition and perhaps, on occasion, cooperation. As I learned in government, saying this is easy; doing it is very hard. But the US government and American businesses must find ways to navigate this terrain, allowing economic and political cooperation when it is mutually beneficial, while always standing firmly in support of universal human rights principles.

⁵⁴ <https://www.theverge.com/2018/7/18/17587304/apple-icloud-china-user-data-state-run-telecom-privacy-security>

⁵⁵ <https://www.nytimes.com/2019/10/09/technology/apple-hong-kong-app.html>

⁵⁶ <https://www.theguardian.com/technology/2019/oct/10/tim-cook-apple-hong-kong-mapping-app-removal>

⁵⁷ <https://www.buzzfeednews.com/article/ryanmac/us-money-funding-facial-recognition-sensetime-megvii>

⁵⁸ Id.

⁵⁹ Id.