



A Policy Roadmap to Support the People of Hong Kong

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THE COMMITTEE FOR FREEDOM IN HONG KONG FOUNDATION

Introduction

It has been almost three years since the Chinese Communist Party (CCP) instituted the National Security Law (NSL) in Hong Kong in July 2020. The law – implemented in response to largely peaceful protests throughout 2019 and 2020 – has been used to reshape the political landscape of the city-state. The NSL granted the CCP the unfettered ability to meddle in every aspect of life in Hong Kong, effectively dismantling the rule of law and judicial system that made Hong Kong an attractive destination for international business. The NSL has also led to the jailing of pro-democracy activists, the closure and muzzling of much of the free press, and substantially ceded power from Hong Kong to the People's Republic of China (PRC).

Key Talking Points

- The U.S. must maintain consistent support for the people of Hong Kong after the Chinese Communist Party instituted the National Security Law in 2020.
- Support for the people of Hong Kong requires the pursuit of a three-pronged strategy that promotes accountability for bad actors, provides relief for those who remain in Hong Kong, and extends safe haven to those who must flee.
- Any effort to out-compete China necessitates the preservation and protection of freedom in Hong Kong and a strong U.S. and international commitment to safeguarding values. A robust strategy to support Hong Kong does that.



In response, the U.S. President decertified Hong Kong's special status, making clear that Hong Kong was no longer sufficiently autonomous from the PRC to merit separate treatment under U.S. law.¹ Since then, the U.S. government has undertaken valiant efforts to disentangle itself from the apparatus that secured Hong Kong's unique treatment under U.S. law. These efforts have been coupled with policies to support the people of Hong Kong. But as of today, many of these efforts remain incomplete and require an update.

Because of the precipitous decline in Hong Kong's protections of freedom and human rights, many have assumed that there is little that can be done to respond. Hong Kong has even been labeled as a lost cause. While it may be true that – in the short-term – it is unlikely that Hong Kong will revert to its previous freedom-loving, semi-autonomous state, it is inaccurate to say that there are no tools at the U.S. and the international community's disposal to hold the CCP and Hong Kong officials accountable and alleviate the suffering of the Hong Kong people.

A decision to accept Hong Kong's fate would result in a repeat of past U.S. foreign policy failures. In essence, it would decouple security-driven policy from human rights-based policy when crafting U.S. policy toward China. Hong Kong is a reminder of the consequences of failing to stop Beijing when they undermine the rights and freedoms of Chinese citizens domestically. This outcome reveals a faulty assumption baked into U.S. policy: that Beijing's undermining of the rights and freedoms of its own citizens has no consequences beyond its own borders.

The U.S. – in concert with the international community – should pursue a three-pronged strategy that seeks to achieve the following objectives: 1) hold officials and entities in the PRC and Hong Kong accountable for the role they played in undermining freedom in the city-state; 2) support the people who – by choice or by force – remain in Hong Kong; and 3) assist Hong Kongers seeking freedom beyond the borders of the city-state. Any U.S. policy aimed at addressing the situation in Hong Kong should be done with broader U.S. policy toward China in mind with the ultimate goal of undermining the CCP's increasing control over Hong Kong.

¹ “The President’s Executive Order on Hong Kong Normalization.” The White House, July 14, 2020, <https://www.federalregister.gov/documents/2020/07/17/2020-15646/the-presidents-executive-order-on-hong-kong-normalization>; Wong, Edward. “Hong Kong Has Lost Autonomy, Pompeo Says, Opening Door to U.S. Action.” *The New York Times*, May 27, 2020. <https://www.nytimes.com/2020/05/27/us/politics/china-hong-kong-pompeo-trade.html>.

Why Does Responding to Hong Kong Matter for U.S. Policy Toward China

In the 2022 National Security Strategy (NSS), the Biden administration identified “out-competing” China as a top foreign policy priority.² The NSS specifically outlined continued U.S. commitments to promoting a free and open Indo-Pacific, and to “the foundational principles of self-determination, territorial integrity.” The NSS also acknowledges that “political independence must be respected, international institutions must be strengthened, countries must be free to determine their own foreign policy choices, information must be allowed to flow freely, universal human rights must be upheld, and the global economy must operate on a level playing field and provide opportunity for all.”³ Implicit in U.S. foreign policy is the protection of human rights. And when it comes to out-competing China, countering their human rights violations is a part of the equation.

When discussing China, the NSS states:

We will hold Beijing accountable for abuses – genocide and crimes against humanity in Xinjiang, human rights violations in Tibet, and the dismantling of Hong Kong’s autonomy and freedoms – even as it seeks to pressure countries and communities into silence.⁴

While it is promising to see Hong Kong recognized in the NSS as an area of concern for the U.S. government, it is difficult to argue that the Biden administration has adopted a consistent strategy for addressing Hong Kong. Since taking office, the administration has only issued two tranches of sanctions.⁵ The first tranche of sanctions was issued in response to requirements under the Hong Kong Autonomy Act (HKAA) and placed 24 PRC and Hong Kong officials on the Specially Designated Nationals list for materially contributing to the PRC’s failure to uphold the Basic Law.⁶ The second tranche of sanctions, targeting seven additional

² “Biden-Harris Administration’s National Security Strategy.” The White House, November 8, 2022. <https://www.whitehouse.gov/wp-content/uploads/2022/10/Biden-Harris-Administrations-National-Security-Strategy-10.2022.pdf>, 23.

³ Ibid.

⁴ Ibid.

⁵ Kai, Jin. “The Biden Administration’s China Sanctions Dilemma.” *The Diplomat*, August 4, 2021. <https://thediplomat.com/2021/08/the-biden-administrations-china-sanctions-dilemma/>.

⁶ “Update to Report on Identification of Foreign Persons Involved in the Erosion of the Obligations of China under the Joint Declaration or the Basic Law” Bureau of East Asian and Pacific Affairs, United States Department of State, March 16, 2021, <https://www.state.gov/update-to-report-on-identification-of-foreign-persons-involved-in-the-erosion-of-the-obligations-of-china-under-the-joint-declaration-or-the-basic-law/>.

individuals from Hong Kong,⁷ was issued in July 2021 in conjunction with a business advisory warning American businesses of the potential risks of continuing to operate in Hong Kong.⁸ Other than these measures, the Biden administration has extended Deferred Enforced Departure (DED) status to Hong Kongers and extended the state of national emergency (initially declared by the Trump administration after the announcement of the NSL) in both 2021 and 2022.⁹

As the situation in Hong Kong continues to decline, more concerted efforts are needed to not just hold officials accountable, but to support the Hong Kong people. To do so, requires political will, and to justify it, a series of reasons for why making progress in Hong Kong is important to support U.S. efforts to “out-compete” China.

With this in mind, there are three reasons why Hong Kong should be considered an important component of U.S. strategy to combat China:

- **Violating human rights is a central means of the CCP to maintain its grip on power. Thwarting the Party’s ability to carry out human rights abuses, therefore, weakens the CCP.** In their seminal book *China’s Search for Security*, Andrew Nathan and Andrew Scobell identify the CCP’s core foreign policy objectives as maintaining internal stability and safeguarding China’s sovereignty.¹⁰ It should come as no surprise that the CCP reacted the way that it did to protests in Hong Kong. In the CCP’s mind, instability in the city-state threatened both internal stability and sovereignty and it used that perceived threat to those objectives as justifications for the crackdown. Given that Hong Kong is so central to what the CCP deems as important, the U.S. should have been prepared with a more robust response when the CCP did what it did in 2020. The CCP deploy many of these same reasons to justify their persecution of Uyghurs, Tibetans, and any other groups it believes pose a threat to the Party’s continued reign.

Given the centrality of human rights violations to the Party’s continued survival, it would be unwise for the U.S. to craft and pursue a China strategy that fails to target the CCP’s policies of violating human rights, including in Hong Kong. Any strategy should instead look for ways to strengthen the hand of the Chinese people and weaken the CCP’s grip on power. Identifying policies that shift risk and alter the behavior of CCP members is critical.

⁷ “Publication of Hong Kong Business Advisory; Hong Kong-Related Designations.” U.S. Department of the Treasury, July 16, 2021. <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20210716>.

⁸ “Risks and Considerations for Businesses Operating in Hong Kong.” U.S. Department of State et al, July 16, 2021. https://home.treasury.gov/system/files/126/20210716_hong_kong_advisory.pdf.

⁹ Kai, “Biden’s China Sanctions Dilemma.”

¹⁰ Nathan, Andrew J. and Scobell, Andrew. “China’s Search for Security.” *Columbia University Press*, 2012.

- **Hong Kong was once a global financial center. Now it is a Chinese financial center. As a former global financial center, its demise has global implications.** The institution of the NSL did not just fundamentally shift the landscape for civil and political liberties in Hong Kong, it also affected the business operating environment. Conditions shifted so substantially, that the U.S. Department of State put out an advisory to the business community in July 2021 to increase awareness about new and emerging risks.¹¹ The advisory explicitly noted 5 risks emanating from: 1) deteriorations in the rule of law, 2) electronic surveillance, 3) limited access to accurate information given declining freedom of the press, 4) engaging with sanctioned individuals and entities, and 5) PRC retaliation.

A 2022 survey produced by the American Chamber of Commerce echoed the business advisory, finding that “[o]ver 8 in 10 businesses operations have felt the impact of the National Security Law, particularly when it comes to staff morale and loss of employees who have emigrated.”¹² The survey went on to say that over 60 percent of companies assess that rule of law has worsened in the city-state since the NSL’s institution. And while only 5 percent of businesses already had plans to leave Hong Kong, more than half of those surveyed were not sure whether they would need to exit, with Singapore serving as the next most desirable destination for doing business.

Rule of law impacts on business are significant. Overnight, Hong Kong authorities seized over \$2.3 million in assets from Apple Daily.¹³ The decision made clear that Hong Kong authorities would put politically motivated charges against Jimmy Lai ahead of business and profit.

The CCP and Hong Kong authority’s continued undermining of the rule of law has created additional space for illicit activities to flourish. Even prior to the events of 2020, Hong Kong was at-risk for money laundering and a home to crime syndicates like the Hong Kong triads. In Hong Kong, some financial institutions are notorious for being at-risk for money laundering, including well-known banks like HSBC, who failed to disclose to the U.S. Department

¹¹ “Publication of Hong Kong Business Advisory; Hong Kong-Related Designations.” U.S. Department of the Treasury, July 16, 2021. <https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20210716>.

¹² “2022 AmCham Hong Kong Business Sentiment Survey.” American Chamber of Commerce in Hong Kong, January 19, 2022. <https://www.amcham.org.hk/news/amcham-hk-releases-2022-business-sentiment-survey-report>.

¹³ Leung, Kanis. “6 Apple Daily Staff Plead Guilty to Collusion in Hong Kong,” *AP NEWS*, November 22, 2022. [https://apnews.com/article/business-arrests-beijing-hong-kong-national-security-0cd73c38635a14fc5500c824f8d8b420#:~:text=HONG%20KONG%20\(AP\)%20%E2%80%94%20Six](https://apnews.com/article/business-arrests-beijing-hong-kong-national-security-0cd73c38635a14fc5500c824f8d8b420#:~:text=HONG%20KONG%20(AP)%20%E2%80%94%20Six).

of Justice that a Hong Kong ring laundered \$4.2 million through HSBC accounts between 2014 and 2016.¹⁴

Additionally, Hong Kong has been historically known as a destination for facilitating money laundering¹⁵, housing shell companies¹⁶, and evading sanctions for rogue regimes like Russia, North Korea, and Iran.¹⁷ Given international sanctions instituted against Russia after its invasion of Ukraine, particular scrutiny has been given to any engagement with Russia.¹⁸ Current Hong Kong Chief-Executive, John Lee, said in 2022 that he would not enforce U.S. unilateral sanctions against sanctioned Russian oligarch Alexei Mordashov when he docked his Megayacht in Hong Kong.¹⁹ And one Reuters investigation found that Western-manufactured semiconductors and chips from Hong Kong were increasingly making their way to Russia despite a U.S. ban²⁰ on providing chips to Russia amidst the ongoing invasion.²¹ The Reuters investigation revealed what appeared to be a shell company housed in Hong Kong that facilitated the tech transfers.²² Hong Kong has also served as a safe haven for shell companies doing the

¹⁴ Wild, Franz and Stockton, Ben. “Money Laundering Ring Pushed \$4billion Through HSBC.” *The Bureau of Investigative Journalism*, July 28, 2021.

<https://www.thebureauinvestigates.com/stories/2021-07-28/money-laundering-ring-pushed-4.2bn-through-hsbc>.

¹⁵ “International Narcotics Control Strategy Report.” United States Department of State Bureau of International Narcotics and Law Enforcement Affairs, March 2022. <https://www.state.gov/wp-content/uploads/2022/03/22-00768-INCSR-2022-Vol-2.pdf>.

¹⁶ “U.S. Warns Hong Kong to Take Action Against Shell Companies.” *Financial Times*, January 24, 2018. <https://www.ft.com/content/22aa5d4a-00e2-11e8-9650-9c0ad2d7c5b5>.

¹⁷ Psaledakis, Daphne. “US Imposes New Sanctions Over Iran Sanctions Evasion, Targets Chinese Firms.” *Reuters*, November 17, 2022, <https://www.reuters.com/world/us/us-imposes-new-sanctions-over-iran-sanctions-evasion-targets-chinese-firms-2022-11-17/>.

¹⁸ Lam, Oiwan. “What is Hong Kong Role in Russia’s Sanctions Evasion?” *Global Voices*, December 21, 2022. <https://globalvoices.org/2022/12/21/what-is-hong-kong-role-in-russias-sanction-evasion/>.

¹⁹ “Hong Kong Nixes Sanctions on Russian-owned Superyacht”, *AP*, October 11, 2022, <https://apnews.com/article/russia-ukraine-putin-hong-kong-government-and-politics-4458f25a52ea698dd5b65a492239efee>.

²⁰ Clark, Don and Swanson, Ana. “US Restricts Sale of Sophisticated Chips to China and Russia.” *The New York Times*, August 31, 2022. <https://www.nytimes.com/2022/08/31/technology/gpu-chips-china-russia.html>.

²¹ Stecklow, Steve, Gauthier-Villars, David, and Tamman, Maurice. “The Supply Chain that Keeps Tech Flowing to Russia.” *Reuters*, December 13, 2022. <https://www.reuters.com/investigates/special-report/ukraine-crisis-russia-tech-middlemen/>.

²² *Ibid.*, Reuters.

bidding of the Iranian and North Korean regimes.²³ These shell companies are often used by these regimes for money laundering purposes. As Hong Kong's legal and judicial system becomes increasingly like that of the PRC's risks to illicit activity may even increase.

While businesses may not be ready to exit China (or Hong Kong, for that matter) at present, declines in Chinese economic growth may soon change the business community's willingness to prioritize doing business in a place where rule of law protections are increasingly sparse.

- **A failure to adequately respond to China's dismantling of freedom could embolden other authoritarian actors to do the same.** The CCP's current posture and behavior makes it one of the worst violators of human rights in the 21st century. Between the Party's targeting of the Uyghurs, undermining of freedom in Hong Kong, and restrictions on fundamental freedoms, it is setting an example for many of the worst actors around the globe. The CCP is attempting to reshape global norms for the CCP's gain. The influence it exerts at the United Nations, through its investments via the Belt and Road Initiative abroad, and its exportation of surveillance technology, demonstrate the ways in which it leverages its authoritarian policies to advance the power and prestige of the Party. Without a clear repudiation of one of its worst, modern acts – the undermining of liberty in Hong Kong – the CCP will no doubt continue these activities.

If the U.S. and other likeminded friends and allies around the globe fail to curb the CCP's activities, there will be serious ramifications, not only for the suffering Chinese people, but for the international community. A failure to repudiate the CCP's rapid transformation of Hong Kong into a vassal state of the Party risks other bad actors attempting the same with their neighbors. It also potentially jeopardizes the future of Taiwan. Beyond that, it risks emboldening other actors around the globe, like Russia, Iran, and North Korea to continue their own human rights violations.

Hong Kong is a case study for what happens when the U.S. sidelines human rights priorities in its strategy to compete with the CCP. It's not too late for

²³ "UANI Calls On Hong Kong Banks Suspected Of Aiding Iran Sanctions Evasion To Sever Ties With Regime." United Against a Nuclear Iran, 2022. <https://www.unitedagainstanucleariran.com/press-releases/uani-calls-on-hong-kong-banks-suspected-of-aiding-iran-sanctions-evasion-to-sever>; "Advisory on North Korea's Use of the International Financial System." United States Department of the Treasury, Financial Crimes Enforcement Network, November 2, 2017. <https://www.fincen.gov/sites/default/files/advisory/2017-11-02/DPRK%20Advisory%20FINAL%20508%20C.pdf>; Jia, Oliver. "One country, one system: How North Korea-Hong Kong ties pivot around China." *NKNews*, May 4, 2022, <https://www.nknews.org/2022/05/one-country-one-system-how-north-korea-hong-kong-ties-pivot-around-china/>.

the U.S. to step up its efforts to safeguard freedom in Hong Kong and hold the CCP and Hong Kong authorities to account. Hong Kong should be a critical part of the U.S.'s strategy to tackle the threat of the CCP and it should be done in tandem with other pro-human rights policies that seek to undermine the CCP's ability to achieve its core foreign policy objectives.

Crafting Policy for Hong Kong's Future

It is hard to envision a near-term future where Hong Kong would be restored to its semi-autonomous state. Given that, U.S. and international policymakers must develop a realistic set of policy prescriptions that seek to achieve three core objectives: First, hold officials and entities in the PRC and Hong Kong accountable for the role they played in undermining freedom in the city-state. Second, support the people who – by choice or by force – remain in Hong Kong. And third, assist Hong Kongers seeking freedom beyond the borders of the city-state.

This vision rightly recognizes that, for the foreseeable future, Hong Kong will continue to look more like mainland China than its previous capitalist and freedom-embracing state. It is not a realistic goal to plan for a future where Hong Kong will transition to democracy or semi-autonomy in the near term. We can expect continued deteriorations based on the trends the international community has witnessed since the NSL went into effect, especially so long as the CCP continues maintains its grip on power in China, and therefore in Hong Kong.

At root, this outlook recognizes that while the CCP may be dead set on undermining freedom in Hong Kong, policymakers should make it harder for the CCP to erode freedom any further while simultaneously supporting the people of Hong Kong.

Accountability for Bad Actors in China and Hong Kong

Accountability for Bad Actors in China and Hong Kong

- Issue targeted sanctions against Chinese and Hong Kong officials responsible for deteriorating conditions in Hong Kong.
- Investigate whether institutions, accounts, or sets of transactions in Hong Kong qualify as Primary Money Laundering Concerns.
- Prosecute individuals and entities aiding in sanctions evasion.
- Revoke special privileges and immunities conferred to Hong Kong Economic and Trade Offices and any other Hong Kong government-affiliated bodies operating in the U.S.
- Carefully investigate and determine whether there are other entities or areas of U.S. policy where Hong Kong continues to receive separate treatment despite the decertification of its special status.



The first prong of any strategy to address deteriorations in Hong Kong necessarily focuses on accountability because the mechanisms for accountability have the greatest likelihood of facilitating future behavioral changes among both CCP and Hong Kong officials. While it may not be possible to undo past actions that undermined liberty in Hong Kong, policymakers can potentially mitigate future actions by making it costlier to continue eroding freedom in the city-state.

There are several policy mechanisms for shifting risk. One of the most potent tools are targeted financial sanctions. In the case of Hong Kong, the U.S. government possesses well-outlined sanctioning powers. Both immediately prior to and after the institution of the NSL, Congress crafted two critical pieces of legislation that granted the executive branch Hong Kong-specific sanctioning powers:

- **Hong Kong Human Rights & Democracy Act (HKHRDA) 2019.** Under the HKHRDA, the President is given both reporting requirements as well as sanctions authority to target individuals responsible for “(A) the extrajudicial rendition, arbitrary detention, or torture of any person in Hong Kong; or (B) other gross violations of internationally recognized human rights in Hong Kong.”²⁴ Individuals sanctioned under these authorities are subject to both financial sanctions (asset blocking and restrictions on transacting in dollar-denominated forms) and visa restrictions.
- **Hong Kong Autonomy Act (HKAA) 2020.** Under the HKAA, the Secretary of State and Secretary of the Treasury are granted both reporting requirements and the authority to target individuals if “a foreign person is materially contributing to, has materially contributed to, or attempts to materially contribute to the failure of the Government of China to meet its obligations under the Joint Declaration or the Basic Law...”²⁵ In addition to targeting individuals, the HKAA also enables Treasury and State to target “any foreign financial institution that knowingly conducts a significant transaction with a foreign person identified in the report under subsection (a).”²⁶ Unlike the sanctions in the HKHRDA, sanctions instituted under the HKAA are mandatory; in other words, foreign persons included in the executive branch report to Congress (issued annually as mandated under the

²⁴ *An Act to Amend the Hong Kong Policy Act of 1992, and for Other Purposes (Hong Kong Human Rights and Democracy Act of 2019)*, Public Law 116-76, 133 Stat. 1161 (2019).
<https://home.treasury.gov/system/files/126/hkhrda.pdf>, 8.

²⁵ *An Act to Impose Sanctions with Respect to Foreign Persons Involved in the Erosion of Certain Obligations of China with Respect to Hong Kong, And for Other Purposes (Hong Kong Autonomy Act)*, Public Law 116-149, 134 Stat. 663 (2020).
https://home.treasury.gov/system/files/126/hkaa_hr7440_pl_116-149.pdf, 7.

²⁶ *Ibid.*

Hong Kong Policy Act), then those individuals must be sanctioned within a year of the report's release.²⁷

The U.S. also has broader, human rights-specific sanctioning authorities that may be applicable to Hong Kong:

- **Global Magnitsky Human Rights Accountability Act.** The Global Magnitsky Act, passed in 2016, grants the President the authority to target individuals on the basis that they are committing “gross violations of human rights.”²⁸ This legal standard was later implemented under Executive Order 13818, which adjusted the legal standard of proof for sanctioning from gross violations of human rights to “serious human rights abuse.”²⁹ This, and other adjustments, improved the workability of the act and enables individuals and entities to be targeted on both human rights and corruption grounds. Individuals sanctioned under Global Magnitsky are placed on the Specially Designated Nationals list.
- **Visa bans under Section 7031(c).** Section 7031(c) of the State, Foreign Operations, and other Related Appropriations Act enables individuals and their family members to be deemed ineligible for entry into the U.S. on the basis that “the foreign official has been involved, directly or indirectly, with significant corruption and/or a gross violation of human rights.”³⁰ Visa bans restrict the children and family members of complicit officials from studying in or travelling to the U.S. In this way, visa bans are a complementary tool to financial sanctions.

In addition to targeted sanctions measures, other tools can be used to target illicit activities in Hong Kong. Doing so has the potential to ratchet up the financial consequences for bad behavior that present risks to U.S. and global markets. Even before the NSL went into effect, Hong Kong was known as a money laundering hub, as well as a source of organized crime. In order to tackle these challenges, especially

²⁷ *An Act to Impose Sanctions with Respect to Foreign Persons Involved in the Erosion of Certain Obligations of China with Respect to Hong Kong, And for Other Purposes (Hong Kong Autonomy Act)*, Public Law 116-149, 134 Stat. 663 (2020).

https://home.treasury.gov/system/files/126/hkaa_hr7440_pl_116-149.pdf, 9.

²⁸ *Global Magnitsky Human Rights Accountability Act*, 22 U.S.C. 2656 (2016).

https://home.treasury.gov/system/files/126/glomag_pl_114-328.pdf, 2.

²⁹ Berschinski, Rob. “Trump Administration Notches a Serious Human Rights Win. No, Really.” *Just Security*, January 10, 2018. <https://www.justsecurity.org/50846/trump-administration-notches-human-rights-win-no-really/>; President Donald J. Trump, “Executive Order 13818—Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption.” *The American Presidency Project*, December 20, 2017. <https://www.presidency.ucsb.edu/documents/executive-order-13818-blocking-the-property-persons-involved-serious-human-rights-abuse-or>.

³⁰ “Report to Congress on Anti-Kleptocracy and Human Rights Visa Restrictions.” U.S. Department of State. <https://www.state.gov/reports/report-to-congress-on-anti-kleptocracy-and-human-rights-visa-restrictions-public-listing/>

as they are likely to become more acute under a system that lacks respect for the rule of law, the U.S. has a few tools at its disposal, including:

- **Evaluating whether elements within Hong Kong qualify as Primary Money Laundering Concerns.** The U.S. has the ability to target financial crimes like money laundering and terrorist financing. One of the more powerful tools at the U.S.'s disposal is Section 311 of the USA Patriot Act which allows Treasury to pursue special measures including by “conclud[ing] that a jurisdiction, financial institution, class of transactions, or type of account is of primary money laundering concern.”³¹ Once labeled as a Primary Money Laundering Concern (PMLC), it typically has a chilling effect on the willingness of legitimate industry to do business with the PMLC. The U.S. also has the option of pursuing special measures short of a PMLC that may help to address concerning trends in illicit activity in Hong Kong.

The PMLC designation was especially powerful when deployed against Banco Delta Asia, a bank in Macao caught laundering money for the North Korean regime back in 2005.³² It was one of the only times that regime in Pyongyang has acknowledged that it felt the financial consequences of sanctions and that it became more difficult for the regime to pursue its weapons development.³³

Hong Kong's history as a hub for money laundering, sanctions evasion, and a destination for shell companies merits attention. All of these behaviors should be investigated and pursued whether through PMLC designations or other legal actions at the U.S. government's disposal.

Sanctions are not the only tools that can be used to shift risk. Despite decertifying Hong Kong's special status back in 2020, U.S. lawmakers are still identifying areas that were overlooked where Hong Kong, nevertheless, continues to enjoy special treatment. The U.S. should be wise about how and in what ways it revokes Hong Kong's special treatment, but there are some more obvious omissions that merit immediate attention. These include:

- **Hong Kong Economic and Trade Offices.** Hong Kong Economic and Trade Offices (ETOs) in the U.S. were founded after the handover of Hong Kong by the British to China in 1997 in order to “broaden, deepen and enrich the already strong economic, trade, investment and cultural ties between

³¹ Council “Assessing Compliance with BSA Regulatory Requirements.” Federal Financial Institutions Examination, accessed January 19, 2023.
<https://bsaaml.ffiec.gov/manual/AssessingComplianceWithBSARegulatoryRequirements/12#:~:text=Section%20311%20establishes%20a%20process.>

³² “Treasury Designates Banco Delta Asia as Primary Money Laundering Concern under USA PATRIOT Act.” U.S. Department of the Treasury, September 15, 2005.
[https://home.treasury.gov/news/press-releases/js2720.](https://home.treasury.gov/news/press-releases/js2720)

³³ Cha, Victor. *The Impossible State: North Korea, Past and Future*. Ecco, 2013.

Hong Kong and the U.S.”³⁴ According to the official website of their D.C. office, the ETO serves two primary functions 1) to liaise with Congress and the executive branch on matters related to economic engagement with Hong Kong and 2) to host cultural events like their annual film festival “Made in Hong Kong” and increase awareness about Hong Kong and its arts and culture. ETOs serve no consular functions, despite receiving diplomat-like privileges and immunities. In addition to the Washington-based office, the ETOs have a presence in New York and San Francisco in the U.S., as well as in 14 other locations across the globe, including in Brussels, London, and Geneva, among others.³⁵ Hong Kong Watch in a 2022 report raised the alarm about ETOs comparing them to PRC embassies and suggesting that all countries review whether ETOs should continue to receive special privileges and immunities.³⁶

Employees of the U.S.-based Hong Kong ETOs are afforded some very specific privileges and immunities under U.S. law. These privileges and immunities were conferred through Executive Order 13052 on June 30, 1997, which underscored that HK ETOs were extended immunities and exemptions under the International Organizations Immunities Act (IOIA) and Article I of the Agreement on State and Local Taxation of Foreign Employees of Public International Organizations.³⁷ Privileges and immunities include, but are not limited to, the equivalent of diplomatic immunity (which unlike diplomats, can be waived), immunity from search and seizure (including at the airport), and exemptions from customs and import taxes, as well as property taxes. These, and other privileges are extended to family members of ETO employees and officers under the IOIA.³⁸

Given that Hong Kong is no longer sufficiently autonomous from Beijing to merit separate treatment under U.S. law, it is questionable whether they should enjoy separate pseudo-diplomatic representation in the form of the ETOs. Nevertheless, ETOs continue to receive this special treatment.

³⁴ “About Us.” Hong Kong Economic and Trade Office, Washington DC, accessed January 19, 2023, <https://www.hketowashington.gov.hk/about-us.html>.

³⁵ “Economic and Trade Offices.” Commerce and Economic Development Bureau, accessed January 19, 2023. <https://www.cedb.gov.hk/en/trade-and-investment/economic-and-trade-offices.html>.

³⁶ “PRC Embassies in Disguise: Hong Kong Economic and Trade Offices Are Another Overseas Arm of the CCP.” *Hong Kong Watch*, October 13, 2022. <https://static1.squarespace.com/static/58ecfa82e3df284d3a13dd41/t/6347a880571e015d3d667986/1665640582083/Briefing+03+-+final+%281%29.pdf>.

³⁷ *Executive Order 13052 of June 30, 1997*. Federal Register, Vol. 62, No. 127, <https://www.govinfo.gov/content/pkg/FR-1997-07-02/html/97-17512.htm>

³⁸ *International Organizations Immunities Act*, 22 U.S.C. 288k, U.S. Government Publishing Office (2011), <https://www.govinfo.gov/content/pkg/USCODE-2011-title22/html/USCODE-2011-title22-chap7-subchapXVIII.htm>

Support for People Who Remain in Hong Kong

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- Encourage members of Congress and the U.S. Commission on International Religious Freedom to adopt political prisoners in Hong Kong.
- Issue grants to support civil society organizations that promote information access in Hong Kong.
- Convene a dialogue between the U.S. government and tech companies to discuss best practices for maintaining a free and open internet in Hong Kong.
- Promote Cantonese language learning and training.
- Discourage the Vatican from expanding its 2018 deal with Beijing.



Many Hong Kongers – either by choice, or by force – remain in Hong Kong. Among the most at-risk are the many high-profile individuals who were active in the pro-democracy movement, like Jimmy Lai, Joshua Wong, Cardinal Joseph Zen, Denise Ho, Martin Lee, Lee Cheuk-yan, Gwyneth Ho, Chow Han-Tung, and others. In fact, some of these individuals, including Chow Hang-tung, Gwyneth Ho, Jimmy Lai, Lee Cheuk-yan, and Joshua Wong have been nominated for the Nobel Peace Prize for their bravery. Many of these targeted former activists face active persecution or are even behind bars. While supporting the most persecuted is a difficult task, it is one that, nevertheless, should be prioritized.

An estimated 10,000 individuals were arrested in the wake of 2019 protests.³⁹ And according to research by ChinaFile, as of September 2022, over 200 individuals have been arrested since the institution of the NSL, and at least 125 individuals have been convicted.⁴⁰ Political prisoners have been convicted on a range of charges, not all of which were levied under the NSL. Hong Kongers are, nevertheless, actively targeted for their political activities, and this has left in its wake a substantial population of political prisoners.

Securing the release of political prisoners should be a top priority for both the Biden administration and for Congress. And since at least some of the individuals currently behind bars are dual-nationals and British citizens, this should be a priority for the UK government, as well.

³⁹ “Memorandum on the Deferred Enforced Departure for Certain Hong Kong Residents.” The White House, August 5, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/05/memorandum-on-the-deferred-enforced-departure-for-certain-hong-kong-residents/>.

⁴⁰ “Tracking the Impact of Hong Kong’s National Security Law,” *ChinaFile Asia Society*. October 25, 2022. <https://www.chinafile.com/tracking-impact-of-hong-kongs-national-security-law>.

As it stands today, the U.S. has a few key mechanisms to advocate for the release of political prisoners. Although this happens rarely, it is one of the few, more tangible things the U.S. government can do to alleviate the suffering of the most persecuted. The apparatus for securing prisoner release in the U.S. includes:

- **Congressional advocacy.** Members of Congress can adopt political prisoners from around the globe. Once adopted, the member of Congress will take steps to advocate for their release. Typically, preference is given to prisoners with connections to the member's district. Occasionally, members with a longstanding interest in a particular country or region will adopt political prisoners regardless of this connection. Either way, the member of Congress, upon adopting the prisoner, bears responsibility to raise the public profile of the prisoner's situation, and advocates directly with counterparts in the U.S. Department of State to increase pressure on the executive branch to prioritize and ultimately secure their release. Members of Congress can also engage in a range of activities to advocate for a political prisoner, including writing letters to the Secretary of State or actors within State (like the Bureau of Democracy, Human Rights, & Labor) responsible for the prisoner's release, holding hearings that highlight the prisoner's case, and pressuring the executive branch to raise the prisoner's case directly in diplomatic engagements with Chinese counterparts. There are at least two congressional initiatives relevant to political prisoners in Hong Kong:
 - **Defending Freedoms Project.** The Tom Lantos Human Rights Commission runs the Defending Freedoms Project, a joint effort between civil society and government, to promote the adoption of political prisoners by members of Congress.⁴¹ At least eight individuals from China have been successfully released, in part due to congressional advocacy, according to the Defending Freedoms Project.⁴² Of the Chinese prisoners currently adopted by members of Congress, not a single one is from Hong Kong.⁴³
 - **Political Prisoner Database.** The Congressional-Executive Commission on China runs a Political Prisoner Database which has identified nearly 1600 political prisoners currently held in China.⁴⁴ The database is a valuable resource for members of Congress and civil

⁴¹ "China Released Prisoners." Tom Lantos Human Rights Commission, House Committee on Foreign Affairs, September 16, 2022. <https://humanrightscommission.house.gov/china>.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ "Congressional-Executive Commission on China Political Prisoner Database." Congressional-Executive Commission on China, October 10, 2019. <https://www.cecc.gov/sites/chinacommission.house.gov/files/documents/CECC%20Pris%20List%2020191010.pdf>.

society to identify both the scope and scale of the political prisoner crisis in China, and also helps in identifying potential prisoners that could be adopted and advocated for by members.

- **The U.S. Commission on International Religious Freedom (USCIRF).** In addition to congressional advocacy, USCIRF is a quasi-non-governmental organization that complements U.S. government efforts to safeguard freedom of religious and belief around the globe. In addition to producing an annual report⁴⁵ surveying country-by-country trends in religious freedom and making recommendations to the U.S. Department of State on whether a country should be classified in State’s annually released International Religious Freedom report as a “country of particular concern” (CPCs), USCIRF can designate individuals as Religious Prisoners of Conscience (RPOCs). RPOCs are individuals from countries that USCIRF recommends be considered a CPC, added to the Special Watch List, or were targeted by non-state actors considered as “Entities of Particular Concern.”⁴⁶ As of November 2022, USCIRF identified 13 RPOCs; of that number, five were political prisoners in China, including Jimmy Lai.⁴⁷ The purpose of the RPOC project according to USCIRF is to “raise public awareness of these prisoners, reduce the overall number of prisoners in captivity, and highlight religious freedom conditions in their country of imprisonment.”⁴⁸ In addition to being labeled as an RPOC, individual commissioners within USCIRF can adopt RPOCs. USCIRF has successfully advocated for the release of several political prisoners, including prominent political prisoner, Andrew Brunson, an American pastor imprisoned in Turkey.⁴⁹

In addition to providing relief to the most vulnerable populations, there are several realms of civil and political liberties that are in need of protection. These include press freedom, religious freedom, and internet freedom, among other liberties.

⁴⁵ “Annual Reports.” United States Commission on International Religious Freedom, 2021. <https://www.uscirtf.gov/annual-reports>.

⁴⁶ “Current RPOCs.” United States Commission on International Religious Freedom, accessed January 19, 2023. <https://www.uscirtf.gov/religious-prisoners-conscience/current-rpocs>.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ “Review of The U.S. Government's Role in Protecting International Religious Freedom.” House Committee on Oversight and Government Reform, Subcommittee on National Security, 115th Cong., 1st sess., 2017, 115-61. <https://www.govinfo.gov/content/pkg/CHRG-115hhrg30292/html/CHRG-115hhrg30292.htm>; *Testimony of Kristina Arriaga de Bucholz Vice Chairwoman U.S. Commission On International Religious Freedom Before The Tom Lantos Human Rights Commission on Defending Prisoners of Conscience*, 115th Congress, (2018) (Kristina Arriaga de Bucholz, Vice Chairwoman, U.S. Commission On International Religious Freedom). <https://humanrightscommission.house.gov/sites/humanrightscommission.house.gov/files/documents/Kristina%20Arriaga-%20USCIRF.pdf>; “Andrew Brunson: Turkey Releases US Pastor after Two Years.” *BBC News*, October 12, 2018, <https://www.bbc.com/news/world-europe-45841276>.

- **Press Freedom.** The NSL has had a crippling impact on the state of press freedom in Hong Kong. 2021 was the first time that the Committee to Protect Journalists had to include Hong Kong in their annual survey of jailed journalists,⁵⁰ with eight journalists jailed during that same year.⁵¹ And in 2022, Hong Kong registered the steepest decline in rankings, dropping 68 places in the Reporters without Borders 2022 report; Hong Kong is now ranked 148th out of 180 countries in the world for press freedom.⁵²

There are few vestiges of the independent press left. They have been systematically targeted by the CCP and elements of the Hong Kong government. Since the law's implementation, critical nodes of the press have been entirely dismantled, for example, through the closure of Apple Daily and Stand News.⁵³ Both agencies had their assets frozen, and their closure led 860 journalists to lose their jobs nearly overnight.⁵⁴

Many of the press outlets left in Hong Kong are pro-Beijing or face interference from the government over what they can publish. Hong Kongers, however, can still access foreign press from inside the city-state. The crackdown on freedom of the press has also led to a mass exodus of journalist professionals, especially those who provided coverage of the pro-democracy movement and protests.

Hong Kong's precipitous decline in press freedom is likely to continue as Hong Kong's civil and political liberties become more similar to the PRC's.

- **Internet freedom.** The state of internet freedom has deteriorated since 2020. Article 43 of the NSL grants Hong Kong police the authority to shut down websites, disrupt communication deemed sensitive by the government, and delete and block content with fines and prison sentences as a consequence for non-compliance.⁵⁵

⁵⁰ Butler, Steven. "Taken into a Cage: Hong Kong's Sad Media Milestone." Committee to Protect Journalists, December 8, 2021. <https://cpj.org/2021/12/hong-kongs-sad-media-milestone/>.

⁵¹ Getz, Arlene. "Number of Journalists behind Bars Reaches Global High," Committee to Protect Journalists, December 9, 2021. <https://cpj.org/reports/2021/12/number-of-journalists-behind-bars-reaches-global-high/>.

⁵² "Asia - Pacific Absolute and Autocratic Control of Information." *Reporters without Borders*, 2022, <https://rsf.org/en/classement/2022/asia-pacific>.

⁵³ Lok-kei, Sum, "A Year on from Apple Daily's Closure, What's Left of Hong Kong's Free Press?" *The Guardian*, June 24, 2022. <https://www.theguardian.com/global-development/2022/jun/24/year-on-from-pro-democracy-apple-daily-closure-whats-left-of-hong-kongs-free-press>.

⁵⁴ "Hong Kong." *Reporters without Borders*, n.d. <https://rsf.org/en/country/hong-kong>.

⁵⁵ "Implementation Rules for Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region Gazetted," The Government of the Hong Kong Special Administrative Region, July 6, 2020. <https://www.info.gov.hk/gia/general/202007/06/P2020070600784.htm>.

While there is no comprehensive report outlining the number of websites that Hong Kongers can no longer access, it is clear that Hong Kong authorities are restricting access to sites the government deems politically sensitive. These include the websites of overseas Hong Kong advocacy organizations like Hong Kong Democracy Council⁵⁶ and Hong Kong Watch,⁵⁷ sites in Taiwan for the Presbyterian Church in Taiwan,⁵⁸ and even the U.S. Army recruiting website.⁵⁹

In addition to restricting websites, Hong Kong authorities have also reached out to major social media companies such as Facebook, Google, Twitter, and others to get sensitive user data information as evidence for prosecution or for targeting individuals deemed politically sensitive.⁶⁰ Hong Kong authorities have threatened jail time and penalties to Hong Kong-based employees to coerce companies to comply.⁶¹ Most large American tech companies do not operate in the PRC due to censorship and the CCP's onerous requests to house data locally, if Hong Kong authorities pursue a similar tack, large tech companies may eventually decide to exit the market.

Threats to online speech are not merely hypothetical. As recently as November 2022, a Hong Kong man was arrested for praising South Korea on Facebook, Instagram, and other social media mediums for playing "Glory to Hong Kong," a key Hong Kong protest song, instead of the PRC's national anthem at the Rugby Sevens match.⁶² In July 2020, Tony Chung and three former members of pro-independence group, Studentlocalism, were arrested under the NSL for social media posts that called on pro-independence groups to form a republic of Hong Kong.⁶³ And the NSL was even applied

⁵⁶ Hutton, Mercedes. "Website of NGO Hong Kong Democracy Council Partially Blocked in City amid Fears over Erosion of Open Internet." *Hong Kong Free Press*, October 26, 2022. <https://hongkongfp.com/2022/10/26/website-of-ngo-hong-kong-democracy-council-partially-blocked-in-city-amid-fears-over-erosion-of-open-internet/>.

⁵⁷ Grundy, Tom. "Hong Kong Watch Website Partially Blocked Amid Rising Fears of Internet Censorship." *Hong Kong Free Press*, February 15, 2022. <https://hongkongfp.com/2022/02/15/website-of-ngo-hong-kong-watch-appears-blocked-amid-rising-fears-of-internet-censorship/>.

⁵⁸ Chun-mei, Hwang and Kuang-cheng, Chung. "Taiwan Church Website Blocked by Hong Kong National Security Police." *Radio Free Asia*, April 26, 2021, <https://www.rfa.org/english/news/china/hongkong-taiwan-04262021140315.html>.

⁵⁹ Wikipedia Contributors, "Internet Censorship in Hong Kong," Wikipedia (Wikimedia Foundation, June 16, 2018), https://en.wikipedia.org/wiki/Internet_censorship_in_Hong_Kong.

⁶⁰ Mozur, Paul. "In Hong Kong, a Proxy Battle over Internet Freedom Begins." *The New York Times*, July 7, 2020. <https://www.nytimes.com/2020/07/07/business/hong-kong-security-law-tech.html>.

⁶¹ Purnell, Newley. "Facebook, Twitter, Google Threaten to Quit Hong Kong over Proposed Data Laws." *Wall Street Journal*, July 5, 2021. <https://www.wsj.com/articles/facebook-twitter-google-warn-planned-hong-kong-tech-law-could-drive-them-out-11625483036>.

⁶² Ibid.

⁶³ Ho, Kelly. "Hong Kong Teen Activist Tony Chung Bailed; Told to Remove Social Media Posts within 72 Hrs Following Security Law Arrest," *Hong Kong Free Press*, July 31, 2020.

retroactively (despite claims that it would not apply to actions committed prior to its enactment), against a woman who ran a Telegram channel during 2019 protests.⁶⁴

The NSL threatens Hong Kongers access to information, freedom of speech, and sent a chilling effect throughout society. Conditions are likely to worsen and merit a sustained and intentional response to preserve free spaces online. Without a concerted effort to safeguard internet freedom, deteriorations are likely to continue.

- **Religious Freedom.** Since the implementation of the NSL, the CCP has enjoyed far greater influence over day-to-day life in Hong Kong. The world has already witnessed the CCP's persecution of Uyghur Muslims, Tibetan Buddhists, and Chinese Christians in the PRC.⁶⁵ Given the CCP's extensive track record of religious persecution, there is an increased need to monitor any deteriorations in religious liberty in Hong Kong.

Heightened religious persecution in Hong Kong is already happening. Many persons of faith, particularly Catholics and Christians, have already been targeted in Hong Kong, including Jimmy Lai, Cardinal Joseph Zen,⁶⁶ Martin Lee,⁶⁷ Joshua Wong, Agnes Chow, and others. While many of them are targeted principally for their political activities, it should come as no surprise that their religion is viewed as threatening by the CCP. The CCP has already stated that it intends to Sinicize (or secularize) religion, especially Christianity, in Hong Kong as it has done in the PRC.⁶⁸

<https://hongkongfp.com/2020/07/31/hong-kong-teen-activist-tony-chung-bailed-told-to-remove-social-media-posts-within-72-hrs-following-security-law-arrest/>.

⁶⁴ "Telegram Channel Operator Gets Three-Year Jail Sentence." *The Standard*, April 20, 2021.

<https://www.thestandard.com.hk/breaking-news/section/4/170146/Telegram-channel-operator-gets-three-year-jail-sentence>.

⁶⁵ Cook, Sarah "Special Report 2017: The Battle for China's Spirit." Freedom House, 2017,

<https://freedomhouse.org/report/special-report/2017/battle-chinas-spirit>.

⁶⁶ Enos, Olivia. "The Closure of Apple Daily: Another Nail in the Coffin for Freedom in Hong Kong." *Forbes*, July 1, 2021. <https://www.forbes.com/sites/oliviaenos/2021/07/01/the-closure-of-apple-daily-another-nail-in-the-coffin-for-freedom-in-hong-kong/?sh=7aef95d161ba>.

⁶⁷ Chau, Candice and Ho, Kelly. "Hong Kong 'Father of Democracy' Martin Lee Handed Suspended Jail Sentence over Peaceful 2019 Demo." *Hong Kong Free Press*, April 16, 2021.

<https://hongkongfp.com/2021/04/16/breaking-hong-kong-father-of-democracy-martin-lee-handed-2-year-suspended-jail-sentence-over-peaceful-2019-demo/>.

⁶⁸ "2021 Report on International Religious Freedom: China—Hong Kong." United States Department of State, Office of International Religious Freedom, June 2, 2022. <https://www.state.gov/reports/2021-report-on-international-religious-freedom/china/hong-kong/>; Torode, Greg. "Historic Conclave: Chinese Bishops, Priests Brief Hong Kong Clerics on Xi's Religious Views." *Reuters*, December 30,

2021. <https://www.reuters.com/world/china/exclusive-historic-conclave-chinese-bishops-priests-brief-hong-kong-clerics-xis-2021-12-30/>.

The Vatican has done very little to speak out in defense of the Catholic faithful imprisoned or targeted by the CCP and has even since renewed for the second time a deal it inked with Beijing in 2018.⁶⁹ This deal gives Beijing far greater authority in appointing Catholic bishops and represented a warming in relations between the PRC and the Vatican. The deal was widely criticized as a capitulation by Rome to the CCP's demands to exert greater authority over the Catholic church's operations in China. While the Vatican's deal with Beijing does not currently extend to Hong Kong, the CCP has made overtures suggesting that it hopes that the deal will one day extend to the city-state. The CCP is already targeting religious-based education, as well. Already, Hong Kong authorities have begun targeting religious education, replacing faith-based education in Catholic schools with NSL-mandated curricula.⁷⁰

Catholics and Christians are not the only ones affected. Pro-Beijing lawmakers in the city-state have called for a complete ban on the Falun Gong, for example.⁷¹ Even Buddhist organizations like the True Buddha School are being attacked in pro-Beijing press, being likened to a cult and using similar language previously applied by the CCP to the Falun Gong.⁷²

It is still early days, but religious freedom is likely to continue to be under threat in Hong Kong. These early warning signs suggest that additional vigilance is necessary from the international community and that the U.S. should closely monitor conditions in Hong Kong and continue support for persons of faith.

⁶⁹ Rocca, Francis X and Yu, Elaine. "Vatican and China Renew Agreement on Bishops as Beijing Tightens Control of Religion." *Wall Street Journal*, October 22, 2022. <https://www.wsj.com/articles/vatican-and-china-renew-agreement-on-bishops-as-beijing-tightens-control-of-religion-11666436864>.

⁷⁰ Shea, Nina. "China Now Threatens Religious Freedom in Hong Kong." Hudson Institute, March 20, 2020. <https://www.hudson.org/human-rights/china-now-threatens-religious-freedom-in-hong-kong>; Rogers, Benedict. "Hong Kong's Religious Freedom Now Firmly in Beijing's Sights." *Union of Catholic Asian News*, February 2, 2022. <https://www.ucanews.com/news/hong-kongs-religious-freedom-now-firmly-in-beijings-sights/95958>.

⁷¹ Lau, Chris. "Falun Gong next on Hong Kong National Security Law Chopping Block?" *South China Morning Post*, July 12, 2021. <https://www.scmp.com/news/hong-kong/politics/article/3140680/outlawed-branded-cult-mainland-china-falun-gong-faces-calls>.

⁷² "Hong Kong Religious Freedom 2021." Office of International Religious Freedom, 2021.

Support For People Who Must Flee Hong Kong

Support for People Who Must Flee Hong Kong

- Grant Priority-2 (P-2) refugee status to Hong Kongers and other persecuted minorities in China.
- Extend Deferred Enforced Departure (DED) status beyond its February 2023 deadline.



No strategy to address the current crisis in Hong Kong would be complete without support for displaced Hong Kongers. Many fled in the immediate aftermath of the implementation of the NSL, but still there are others who may seek safe haven in the U.S. and other countries around the globe. As it stands, the routes for Hong Kongers to be resettled in the U.S. are limited and largely temporary. This challenge is easily rectified by a minor adjustment in U.S. law that can be carried out by either Congress or the executive branch. It involves usage of the U.S. Refugee Admissions Program (USRAP), specifically Priority-2 (P-2) refugee status.⁷³

The U.S. and 146 other countries base their refugee policy on the 1951 United Nations Convention Relating to the Status of Refugees, or on the convention's 1967 protocol. The convention defines a refugee as a person who,

“...owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”⁷⁴

U.S. efforts to support Hong Kongers lag behind other countries, like the United Kingdom, which extended refugee status to the more than 3 million Hong Kongers who hold a British passport, also known as British Nationals Overseas (BNOs).⁷⁵ As of June 2022, over 140,000 Hong Kongers applied for the BNO since the institution

⁷³ Enos, Olivia. “Why the U.S. Should Extend ‘Priority 2’ Refugee Status to Uyghurs and Hong Kong Citizens.” The Heritage Foundation, February 4, 2022. <https://www.heritage.org/asia/report/why-the-us-should-extend-priority-2-refugee-status-uyghurs-and-hong-kong-citizens>.

⁷⁴ “Convention and Protocol Relating to the Status of Refugees.” United Nations High Commissioner for Refugees, February 14, 2011. <https://www.unhcr.org/3b66c2aa10.html>.

⁷⁵ Eardley, Nick. “UK Makes Citizenship Offer to Hong Kong Residents.” *BBC News*, July 1, 2020. <https://www.bbc.com/news/uk-politics-53246899>.

of the NSL.⁷⁶ As of November 2022, the British government announced that it has expanded BNO eligibility.⁷⁷ Yet the U.S. has no similar equivalent, despite historically accepting more refugees than any other country in the world until more recently.⁷⁸

When intractable, long-term crises strike, and the crisis shows few signs of abating, the U.S. can use the USRAP to provide immediate and long-term relief. P-2 refugee status is an especially useful tool because when a group is designated as P-2, they are conferred the label of a “group of special humanitarian concern.” Once labeled, applicants for P-2 still have to demonstrate that they are 1) a refugee, and 2) prove their individual case of persecution. P-2 applicants can apply from within their country of origin (a subpar option for Hong Kongers who likely cannot apply from within the city-state’s borders) or from outside their home country. Unlike other refugee categories, P-2 recipients can bypass referral from the United Nations High Commissioner for Refugees, an NGO, or an embassy which expedites the process for resettlement.⁷⁹ Otherwise, they are subject to the same, stringent U.S.-based means of vetting a refugee’s fitness for eligibility to enter the U.S.

Once vetted, recipients of P-2 can resettle in the U.S. permanently. This stands in sharp contrast to the range of other options that Hong Kongers either already possess, or are currently under consideration in the policy community, including:

- **Deferred Enforced Departure (DED).** Hong Kong citizens already have a form of temporary safe haven in the U.S. On August 5, 2021, the Biden administration extended DED to Hong Kongers, which means that eligible citizens of Hong Kong can stay (and work) in the U.S. for up to 18 months without fear of removal.⁸⁰ Therefore, there are already temporary, short-term

⁷⁶ Kihara, Takeshi. “Hong Kong Exodus Grows as 140,000 Apply for New British Visa.” *Nikkei Asia*, August 30, 2022. <https://asia.nikkei.com/Economy/Hong-Kong-exodus-grows-as-140-000-apply-for-new-British-visa>.

⁷⁷ “Hong Kong British National (Overseas) Route.” UK Home Office, November 30, 2022. https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1120781/Hong_Kong_British_National_Overseas_route_final.pdf.

⁷⁸ Radford, Jynnah and Connor, Phillip. “Canada now leads the world in refugee resettlement, surpassing the U.S.” *Pew Research Center*, June 19, 2019. <https://www.pewresearch.org/fact-tank/2019/06/19/canada-now-leads-the-world-in-refugee-resettlement-surpassing-the-u-s/>.

⁷⁹ Mahtani, Shibani. “Hong Kong activists turned away in bid for refuge at U.S. Consulate, advocacy group says.” *The Washington Post*, October 28, 2020.

https://www.washingtonpost.com/world/asia_pacific/hong-kong-usconsulate-asylum/2020/10/28/8f92a9dc-18d9-11eb-8bda-814ca56e138b_story.html; “Nowhere Feels Safe: Uyghurs Tell of China-Led Intimidation Campaign Abroad.” Amnesty International, 2020. https://www.amnesty.nl/content/uploads/2020/02/Nowhere-feels-safe_Final.pdf.

⁸⁰ “Memorandum on the Deferred Enforced Departure for Certain Hong Kong Residents.” The White House, August 5, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/08/05/memorandum-on-the-deferred-enforced-departure-for-certain-hong-kong-residents/>.

options in place for Hong Kongers. The current DED status is set to expire in February 2023.⁸¹

- **Asylum.** Asylum is another option available to individuals' seeking protection from past persecution or fear of future persecution due to their "race, religion, nationality, membership in a particular social group, or political opinion."⁸² Once granted asylum, the applicant becomes an asylee and is eligible to apply to become a Legal Permanent Resident a year after they are granted asylum; in other words, asylum provides a path to eventual citizenship.⁸³ It has been a popular pathway for Hong Kong activists in the US, but an applicant has to be physically present in the U.S. to apply and provide evidence demonstrating that they qualify for asylum. Many protesters in Hong Kong do not have any non-immigrant visa to visit the US, while others struggle to provide verifiable proof of their participation in protests or the persecution they faced at the hands of the Hong Kong authorities. So unfortunately, asylum is not a viable option for all Hong Kongers.
- **Temporary Protected Status (TPS).** A country can be designated by the executive branch for TPS "due to conditions in the country that temporarily prevent the country's nationals from returning safely, or in certain circumstances, where the country is unable to handle the return of its nationals adequately."⁸⁴ Current recipients of TPS originate from 13 countries, including Afghanistan, Burma, El Salvador, Haiti, Syria and elsewhere. It is difficult to even conceive of the situation facing most Hong Kongers as temporary since the NSL represents a permanent change in law. TPS, unlike P-2, does not afford a recipient with eligibility to become a Legal Permanent Resident (LPR) (although they are eligible for nonimmigrant status, to request a change of immigration status, and other benefits). TPS is duplicative of DED and therefore a less salient solution to rectify the challenges facing Hong Kongers.
- **Humanitarian Parole.** Humanitarian parole is typically extended to individuals who need to gain access to the U.S. on an emergency basis (typically for a discrete set of reasons including dire "humanitarian

⁸¹ "Deferred Enforced Departure." U.S. Citizen and Immigration Services, July 21, 2022. <https://www.uscis.gov/humanitarian/deferred-enforced-departure>.

⁸² "Refugees and Asylees." U.S. Department of Homeland Security, 2022. <https://www.dhs.gov/immigration-statistics/refugees-asylees>.

⁸³ Ibid.,

⁸⁴ "Temporary Protected Status." U.S. Citizen and Immigration Services, January 12, 2023. <https://www.uscis.gov/humanitarian/temporary-protected-status>.

circumstances or for significant public benefit reasons”),⁸⁵ but who are otherwise ineligible to enter the U.S. Some examples of discrete reasons for humanitarian parole include needing emergency medical attention or testifying in a court case. In other words, this is a status that is supposed to be extended on a case-by-case, individual basis and is not designed or generally applicable to a group such as Hong Kongers. Like TPS, humanitarian parole does not provide a pathway for permanent resettlement. It’s difficult to see how humanitarian parole is a viable, much less, long-term option for fleeing Hong Kongers.

- **Lautenberg Amendment refugee status.** Lautenberg Amendment refugee status is actually a part of the P-2 program. It was originally created for religious minorities fleeing the Soviet Union and Indochina who, as a group, had a well-founded fear of persecution.⁴⁰ Unlike other P-2s, they do not have to prove individual persecution as much as they must prove their membership in a particular group. Furthermore, they are required to have close family in the U.S. to sponsor their case. It functions primarily as a family reunification mechanism.⁴¹ Furthermore, Lautenberg Amendment refugees are processed within their country of origin; this is a near impossibility for either Uyghurs or Hong Kongers.⁴² While the Lautenberg Amendment may be a relevant option for some Uyghurs with family in the U.S., this option is less salient than a straight P-2 designation. Likewise, it is hard to make a case for Hong Kongers as a persecuted religious minority since they are persecuted principal on a political and not a religious basis.

Debates over whether to extend priority refugee status to Hong Kongers have repeatedly gotten hung up over misunderstandings or conflation of the options and misperceptions about the stringency of vetting. With P-2, both of these concerns are addressed.⁸⁶ P-2 offers a permanent solution that requires refugees be processed and vetted to determine their eligibility to be resettled in the U.S. When the situation on the ground is unlikely to change for persons fleeing persecution, permanent options are the only ones that should be considered.

Advocacy for P-2 for Hong Kongers should not be pursued in isolation. There is another population in China equally worthy of P-2 status: Uyghurs. Refugee advocacy should seek to partner with elements of the Uyghur community to improve the likelihood of garnering status for both groups persecuted by the CCP.

⁸⁵ “Information for Afghan Nationals on Requests to USCIS for Parole.” U.S. Citizenship and Immigration Services, November 18, 2022. <https://www.uscis.gov/humanitarian/humanitarian-parole/information-for-afghan-nationals-on-requests-to-uscis-for-parole>.

⁸⁶ Enos, Olivia. “The U.S. Refugee Admissions Program: A Roadmap for Reform.” The Heritage Foundation, July 5, 2017. <https://www.heritage.org/immigration/report/the-us-refugee-admissions-program-roadmap-reform>.

Recommendations

- **Make full use of pre-existing sanctions tools to shift the risk of bad actors with the intent of undermining freedom in Hong Kong.**
 - **Issue targeted, subsequent, and strategically timed unilateral sanctions against Chinese and Hong Kong officials responsible for deteriorating conditions in Hong Kong.** There is no need to create new legislation or new sanctioning authorities to target Hong Kong; the necessary authorities are already encapsulated in the Hong Kong Human Rights and Democracy Act, the Hong Kong Autonomy Act, and if necessary, under Global Magnitsky authorities, as well as visa bans under Section 7031(c). However, there is a need for a more systematic application of sanctions. Civil society should coalesce around a few subsets of sanctions, perhaps identifying priority areas, and press the U.S. Department of Treasury and the U.S. Department of State to issue tranches of sanctions regarding, for example: 1) undermining the rule of law in Hong Kong, 2) violations of press freedom, 3) political prisoners, 4) threats to religious freedom,⁸⁷ 4) restrictions on access to the internet, among other subjects, and time these sanctions could be timed with key anniversaries, trials, meetings between U.S. and Chinese counterparts, and key geopolitical events like the UN General Assembly, for example. Furthermore, there should be efforts to target financial institutions for sanctioning under the Hong Kong Autonomy Act. These sanctions tools have not been used to their fullest extent and are uniquely tailored to address challenges in Hong Kong; the U.S. government should make better use of these authorities.
 - **Partner with allies like the United Kingdom, the European Union, Canada, Japan, Australia, and others to issue multilateral sanctions that target key individuals and entities in Hong Kong ripe for sanctioning.** Multilateral sanctions not only have strong financial consequences for individuals and entities in Hong Kong, but also send a message of solidarity as the world seeks to oppose China's undermining of freedom in Hong Kong. So far, not a single set of multilateral sanctions have been issued over Hong Kong. This should be quickly remedied. Among the first targets should be Hong Kong's current Chief Executive, John Lee, who is already unilaterally sanctioned by the U.S. government.

⁸⁷ "United States Commission on International Religious Freedom 2022 Annual Report." U.S. Commission on International Religious Freedom, April 25, 2022. <https://www.uscirtf.gov/sites/default/files/2022%20Annual%20Report.pdf>.

- **Investigate whether institutions, accounts, or sets of transactions in Hong Kong qualify as Primary Money Laundering Concerns.**⁸⁸ Section 311 of the USA’s Patriot Act can be used against specific financial institutions, sets of transactions, or types of accounts as opposed to designating an entire jurisdiction as a PMLC. It is difficult (arguably impossible) to contend that Hong Kong as a jurisdiction qualifies as a PMLC; a broad sweeping designation should be avoided at this time. A PMLC designation for an institution, set of transactions, or accounts would 1) send a signal that things are not business as usual in Hong Kong and 2) cause the business community to question whether Kong remains a reputable financial market for continuing to do business.

- **Prosecute individuals and entities in Hong Kong aiding in sanctions evasion.** This paper already outlined several instances where institutions or entities in Hong Kong were responsible for aiding and abetting in sanctions evasion for regimes like Russia,⁸⁹ Iran, North Korea, Burma, and elsewhere. Any institution found doing this should be pursued to the fullest extent of U.S. law and prosecuted for the role they play in undermining the business environment in Hong Kong.

- **Ensure accountability when Hong Kong’s domestic anti-money laundering tools are deployed for politically motivated reasons.** Reports since the institution of the NSL suggest that Hong Kong’s anti-money laundering apparatus has been deployed for politically motivated reasons. One 2020 SCMP article said that Hong Kong’s Monetary Authority instructed banks to report suspicious transactions that may violate the NSL to investigate for money laundering and counter-financing of terrorism.⁹⁰ Furthermore, since the institution of the NSL, The Good Neighbor North District Church was accused of money laundering in what the former pastor of the church, Roy Chan, described as targeting for the church’s involvement in promoting peace between protestors and police during the 2019 protests.⁹¹ The U.S. should not automatically treat reports of money

⁸⁸ “Assessing Compliance with BSA Regulatory Requirements,” Federal Financial Institutions Examination Council, accessed January 19, 2023. <https://bsaaml.ffiec.gov/manual/AssessingComplianceWithBSARegulatoryRequirements/12#:~:text=Section%20311%20establishes%20a%20process>.

⁸⁹ “Hong Kong Nixes US Sanctions on Russian-Owned Superyacht.” *AP NEWS*, October 11, 2022. <https://apnews.com/article/russia-ukraine-putin-hong-kong-government-and-politics-4458f25a52ea698dd5b65a492239efee>.

⁹⁰ Bray, Chad. “Banks Told to Report Dealings That May Breach National Security Law.” *South China Morning Post*, October 20, 2020. <https://www.scmp.com/business/banking-finance/article/3106239/banks-advised-report-transactions-suspected-violating-hong>.

⁹¹ “Hong Kong Religious Freedom 2021.” Office of International Religious Freedom, 2021.

laundering by the Hong Kong government as legitimate given the shifting motivations of those charged with the enforcement of the laws.

- **Revoke special privileges and immunities conferred to Hong Kong Economic and Trade Offices and any other Hong Kong government-affiliated bodies operating in the U.S.** The ETOs operate at the pleasure of the U.S. President. Given that Hong Kong’s special status was decertified, the President could, at any time, say that the ETOs are no longer able to operate as Hong Kong government entities distinct from the PRC. At minimum, the President should revoke any special privileges and immunities granted to employees of U.S.-based ETOs and their family members. Should Hong Kong’s special status be recertified in the future, Hong Kong ETOs and their special immunities and privileges could be reinstated.⁹² The U.S. should also look for any other organizations and entities that Hong Kong authorities are exploiting that expand CCP influence in the U.S.
- **Carefully investigate and determine whether there are other entities or areas of U.S. policy where Hong Kong continues to receive separate treatment despite the decertification of its special status.** There are other institutions at work in the U.S., like the Hong Kong Trade and Development Council (registered under the Foreign Agents Registration Act for its lobbying activities in the U.S.), which continue to operate as extension of the Hong Kong government but, like the ETOs, are more representative of Beijing. The U.S. government should conduct a thorough review of areas where Hong Kong continues to receive special treatment and determine whether it merits further application of the decertification.
- **Strengthen and streamline the Defending Freedoms Project to improve outcomes in political prisoner advocacy.** The Tom Lantos Human Rights Commission’s Defending Freedoms Project serves as an invaluable resource for political prisoner adoption. Nevertheless, the process for connecting family members of political prisoners with members of Congress, despite the Lantos Commission’s excellent efforts, remains opaque. The Lantos Commission should consider requiring an annual report from members of Congress and their staff on actions taken to advocate for the political prisoners they adopted; regularly issue a list of political prisoners eligible for adoption to members of Congress and their staff; and improve resources to constituents with family members or friends who may be eligible for adoption on how best to prepare their applications for adoption to increase their chances at securing high-level advocacy from members.

⁹² “2022 Report to Congress.” U.S. Congress, U.S.-China Economic and Security Review Commission, 117th Cong., 2d sess., 2022. [https://www.uscc.gov/sites/default/files/2022-11/2022 Annual Report to Congress.pdf](https://www.uscc.gov/sites/default/files/2022-11/2022%20Annual%20Report%20to%20Congress.pdf)

- **Develop a regularized mechanism between Congress and the executive branch to press for the release of all political prisoners in Hong Kong.** Mandate a report to Congress from the relevant bureaus and offices at the U.S. Department of State outlining steps taken to advocate for the release of political prisoners from China. In addition, Congress should hold regularized meetings between congressional and executive branch staff to provide updates about political prisoner’s well-being, steps taken to secure their release, and outline plans for future advocacy for political prisoners.
- **Encourage members of Congress and USCIRF to adopt additional Hong Kong political prisoners.** At present, not a single political prisoner in Hong Kong is adopted by a member of Congress, according to the Defending Freedoms Project.⁹³ There are hundreds of Hong Kong political prisoners that could be adopted, and some especially high-profile individuals, like Jimmy Lai, should be top of the list. USCIRF should likewise continue its efforts for religious prisoners of conscience; USCIRF has already adopted Jimmy Lai.
- **Broaden multilateral cooperation among allies on Hong Kong.** Allies and partners should coordinate sanctions efforts, refugee relief, and political prisoner advocacy efforts. The U.S. and the UK in particular have several areas of overlap in their foreign policy priorities, including several BNOs currently imprisoned in Hong Kong where partnership between the two governments may be advantageous in securing their release, sanctions targets where the U.S. already has the information necessary to issue financial sanctions, and lessons to be learned from early UK resettlement of Hong Kongers. Other partners like the EU, Japan, and Australia could be equally helpful in joining U.S. efforts to hold the CCP and Hong Kong authorities accountable.
- **Issue grants to support civil society organizations that promote information access in Hong Kong.** There is a need to systematically thwart CCP efforts to undermine access to information in Hong Kong. Similar programs conducted during the Cold War, and in information-insecure environments like North Korea, Iran, and the PRC, have served as literal lifelines for people seeking information about their own government’s actions and events occurring outside of their country. The *Safeguarding Internet Freedom in Hong Kong Act of 2021* advocates for the creation of grants that promote internet and press freedom, firewall circumnavigation tools, and distributed denial of services mitigation techniques, among other

⁹³ “China.” Tom Lantos Human Rights Commission, House Committee on Foreign Affairs, January 13, 2023. <https://humanrightscommission.house.gov/defending-freedom-project/prisoners-by-country/China>.

activities.⁹⁴ Grants should be issued to groups that are on the cutting edge of applying new and emerging technology in information-insecure spaces, as well as make use of older forms of technology (like radio programming produced by Radio Free Asia in Cantonese) that serve equally valuable purposes in providing access to information. These grant-making authorities should arguably flow from a broader U.S.-government strategy to promote information access in Hong Kong.

- **Convene a dialogue between the U.S. government and tech companies like Facebook, Google, Twitter, and others to discuss best practices for maintaining a free and open internet in Hong Kong.** A government-led working group could lead to better-coordinated efforts that seek to resist pressure from the CCP to compromise the safety and security of Hong Kongers. Freedom House suggests that U.S. tech firms should “resist state demands that violate users’ rights, including by rebuffing requests for user data or to remove, block, or otherwise censor content that is protected under international human rights standards.”⁹⁵ Freedom House also encourages companies to be transparent about the requests for data they receive from the CCP and Hong Kong authorities in order to better understand the scope and scale of privacy infringements.
- **Promote Cantonese language learning and training.** A typical play out of the CCP playbook is to undermine the culture of minorities (like Uyghurs and Tibetans) in order to make them conform to Han norms. It is therefore no surprise that the CCP has sought to undermine Cantonese language. The U.S. should continue to support Cantonese language learning and continue with U.S. programs that present content and information in Cantonese.
- **Discourage the Vatican from expanding its 2018 deal with Beijing.** The Vatican and the PRC do not enjoy formal relations, but a deal inked in 2018 reportedly gave the CCP the authority to appoint future bishops, but grants the Vatican veto power over these CCP-appointed bishops.⁹⁶ While the deal does not currently cover Hong Kong, reports suggest that Beijing is seeking to expand its reach to the city-state.⁹⁷ To safeguard religious freedom in Hong Kong, the U.S. government should oppose any expansion of the deal

⁹⁴ Safeguarding Internet Freedom in Hong Kong Act of 2021, S.860, 117th Congress (2021). <https://www.congress.gov/bill/117th-congress/senate-bill/860/text>.

⁹⁵ Datt, Angeli. “The Impact of the National Security Law on Media and Internet Freedom in Hong Kong.” Freedom House, October 19, 2021. https://freedomhouse.org/article/impact-national-security-law-media-and-internet-freedom-hong-kong#footnoteref80_cgkbb7p.

⁹⁶ Enos, Olivia. “Religious Freedom for China’s Catholics Imperiled If Vatican Deal Is Inked.” *Forbes*, September 14, 2018. <https://www.forbes.com/sites/oliviaenos/2018/09/14/religious-freedom-for-chinas-catholics-imperiled-if-vatican-deal-is-inked/?sh=75cbc67963cd>.

⁹⁷ “Hong Kong Religious Freedom 2021.” Office of International Religious Freedom, 2021.

in the strongest terms and engage in diplomacy with the Vatican to urge the repeal of the 2018 deal which has since been renewed twice.

- **Monitor deteriorations in religious freedom in Hong Kong.** The CCP and Hong Kong authorities are already targeting persons of faith in Hong Kong. Christians and Catholics are facing uniquely widespread persecution, as are other persons of faith. The U.S. government should continue to monitor these trends and put in place efforts similar to those undertaken to maintain contact with the underground church in the PRC, including by establishing safe and secure channels for information exchange on the state of religious persecution in Hong Kong.
- **Partner with other persecuted minorities in China to advance U.S. policy toward China.** The CCP's human rights abuses are rampant and widespread, affecting many groups in China, including Uyghurs, Tibetans, human rights lawyers, and other persecuted groups. Our voices are stronger when we coordinate together to ensure accountability for the CCP and protections for Chinese citizens left behind. More regularized mechanisms should be developed for these groups to partner together in their advocacy efforts and the U.S. government should develop more systematic and regular ways to facilitate communication and information sharing between these groups and government entities.
- **Grant Priority-2 (P-2) refugee status to Hong Kongers and other persecuted minorities in China.** It is within the power of Congress or the administration to extend P-2 status to Hong Kongers. The President can decide to extend P-2 status to Hong Kongers (or any group) at any point in time, as we saw in the aftermath of the U.S. withdrawal from Afghanistan when Afghans were granted P-2 status.⁹⁸ Legislative efforts in Congress, like the *Hong Kong Safe Harbor Act*, seek to do the same.⁹⁹ Doing so would provide Hong Kongers with an expedited means of resettlement that rightly recognizes the permanence of the changes in the city-state and offers them permanent safe haven within U.S. borders.
- **Extend Deferred Enforced Departure (DED) status beyond its February 2023 deadline.**¹⁰⁰ DED is “an administrative stay of removal that

⁹⁸ “U.S. Refugee Admissions Program Priority 2 Designation for Afghan Nationals.” United States Department of State, August 2, 2021. <https://www.state.gov/u-s-refugee-admissions-program-priority-2-designation-for-afghan-nationals/>.

⁹⁹ Hong Kong Safe Harbor Act, S.295, 117th Congress, (2021). https://www.rubio.senate.gov/public/_cache/files/0c2c776f-2910-4b60-8096-c6ace69f7397/5DDAEC127599E67A95C8474D3BD265A8.hk-safe-harbor.pdf.

¹⁰⁰ “2022 Report to Congress.” U.S. Congress, U.S.-China Economic and Security Review Commission, 117th Cong., 2d sess., 2022. [https://www.uscc.gov/sites/default/files/2022-11/2022 Annual Report to Congress.pdf](https://www.uscc.gov/sites/default/files/2022-11/2022%20Annual%20Report%20to%20Congress.pdf).

the President can make for a group of individuals in his constitutional authority to conduct foreign relations.”¹⁰¹ DED recipients do not possess any immigration status, meaning that to receive actual status they need to apply for asylum. Persons with DED status who no longer desire (or deem it impossible to return to Hong Kong) should apply for asylum as soon as possible. Under no circumstances should asylum seekers with pending asylum claims be sent back to Hong Kong. Remedies for asylum seekers should be pursued separately from refugees. DED protections should be renewed at least one more time to give Hong Kongers currently residing in the U.S. the time they need to apply for asylum.

Conclusion

Hong Kong was once among the freest city-states in Asia. Today, Hong Kong’s future is in jeopardy. Hong Kong is a battleground where the fight for freedom in Asia is being won and lost. As the U.S. seeks to out-compete China and the rest of the world seeks to mitigate the risks posed by the CCP, it is in their interest to support the people of Hong Kong. That is why the U.S. in concert with allies and partners must pursue a three-pronged approach that seeks accountability, safeguards the freedoms of Hong Kongers in Hong Kong, and offers safe haven to those who have no choice but to flee. A strategy to outcompete China is not complete without robust human rights protections that advance the security and economic goals of the U.S. Prioritizing Hong Kong in U.S. policy toward China is the right path forward.

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¹⁰¹ “Deferred Enforced Departure (DED) and Temporary Protected Status (TPS) Live Engagement Questions and Answers.” United States Citizenship and Immigration Services. https://www.uscis.gov/sites/default/files/document/outreach-engagements/Temporary_Protected_Status_and_Deferred_Enforced_Departure_for_Venezuela-Questions_and_Answers.pdf.