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Human Rights Watch appreciates the opportunity to testify at this timely discussion on the status of human rights in Hong Kong.

Since its return to People’s Republic of China (PRC) sovereignty in 1997, Hong Kong has remained the only part of the PRC with a robust and independent legal system, relatively strong protections on the freedom of expression, and limited but regular elections. The status of human rights in Hong Kong matters not just for the people of Hong Kong but for China.

Yet there have been some worrying developments of late, including remarks by senior officials from Beijing suggesting that it would identify candidates for election to senior offices in Hong Kong via a litmus test for loyalty to the People’s Republic of China and the Chinese Communist Party. And there have been clumsy attempts to impose nationalist sentiment on Hong Kong’s population through efforts such as proposed “patriotic education” campaigns in schools, in which the Chinese government’s version of recent history is presented without mention of human rights violations; the proposal was withdrawn in the face of widespread public opposition. That large numbers of Hong Kong residents continue to object to what are considered intrusions on HK’s autonomy, and to rally to remember events like the Tiananmen Square Massacre, suggests that they take the exercise of their rights very seriously.

In recent years, Human Rights Watch has focused on three key human rights issues in Hong Kong: universal suffrage, freedom of assembly, and press freedom. Because my fellow panelist will address issues around press freedom, I will focus on the first two topics.

Universal suffrage. The International Covenant on Civil and Political Rights (ICCPR), which continues to apply in Hong Kong, stipulates that elections be conducted on the basis of “universal and equal suffrage” and that “the vote of one elector should be equal to the vote of another.” Yet the processes of selecting Hong Kong’s Chief Executive, Executive Council, and Legislative Council (LegCo) do not meet these standards because these positions are not all elected through direct representation. And an important step forward for political rights in Hong Kong — the means of electing the chief executive — continues to hang in the balance.

Hong Kong’s Legislative Council consists of 70 members, but not all members are elected equally. 35 members are directly elected through geographical constituencies, in which members of the general population cast one vote. Another 35 LegCo members are elected through “functional constituencies,” in which people in certain professions are allowed to cast a vote in addition to their vote in their geographic constituency. As there are far fewer electors in functional constituencies, each of these votes can weigh far more heavily towards generating representatives in these functional constituencies. In 2012, the Hong Kong government introduced changes to the LegCo elections: five seats were to be added to the LegCo through geographical constituencies and five more to be added through “super seats” to enable the general population to cast a second vote in a functional constituency. But these changes do not mitigate the underlying problem of unequal votes.

Equally important, although the central government in Beijing has stated via a 2007 National People’s Congress Standing Committee decision that there “may be” universal suffrage for Hong Kong’s next chief executive election in 2017 and LegCo in 2020, neither the Hong Kong nor Chinese governments have outlined clear plans on how universal

suffrage might be instituted. Although the Hong Kong government stated in 2012 that it will begin consultations on the electoral methods of the 2016 LegCo and 2017 Chief Executive elections, the question of universal suffrage was conspicuously absent in the current Chief Executive's first policy address in January 2013.

Human Rights Watch has urged the Hong Kong government to ensure that the new electoral methods developed for 2016, 2017, and beyond are in compliance with international standards on political participation.

Freedom of assembly. Demonstrations and protests in Hong Kong are governed by the Public Order Ordinance, which stipulates that organizers of public assemblies of more than 30 protestors have to both notify the police seven days in advance and receive a “notice of no objection” from the government before they can be held. In 1995 after the passage of Hong Kong's Bill of Rights Ordinance, the Public Order Ordinance was revised to allow protests to take place without prior permission; only organizers of assemblies of more than 50 protestors need to notify the government a week in advance. However, immediately after Hong Kong returned to Chinese control, the Provisional Legislative Council established by the PRC government again revised the ordinance, and again instituted the regime of prior permission. International law does not require prior permission except in very narrow public order circumstances.

Recent reports also suggest an increasing number of arrests of and prosecutions against protestors. According to the Hong Kong organization Civil Human Rights Front, in just one year in 2011, 444 protestors were arrested by the police, which surpassed the total number of protestors arrested since 1997 (314 protestors were arrested in this period). According to police figures, 45 out of the 444 arrested were charged with “unlawful assembly” under the Ordinance. The police argued that this is due to increased violent incidents during protests, but protestors allege that the government is using parts of the Public Order Ordinance, which includes vague standards such as whether at a given protest “a breach of the peace is likely to be caused,” to punish and deter protestors.

Human Rights Watch is also concerned with the use of cameras and video-recording devices by the Hong Kong police to film demonstrations, with close-up shots of demonstrators, even when there is no criminal behavior during demonstrations and even when protestors have explicitly told the police that they do not wish to be filmed. Official surveillance is not only intrusive on privacy, but can inhibit exercise of the right to assemble and associate publicly, and should have to be justified on a case-by-case basis in law by some threat to public safety or public order, rather than imposed on every gathering.

A number of individuals and organizations in Hong Kong have proposed that if meaningful democratic reforms are not made over the course of the coming year, they will hold nonviolent sit-ins in the heart of Hong Kong—the “Occupy Central” campaign—in the summer of 2014. Government officials have already publicly stated that there “will be no possibility” that such a gathering would be “lawful or peaceful,” warning that the government would not tolerate it, and that it would “end in bloodshed.” Such rhetoric raises concerns that the authorities are trying to suppress plans for assembly because of the issue at stake rather than public order concerns. These statements also raise concern as to whether the police force is being primed to use force in inappropriate ways. Human rights standards, both local and international, require that the authorities use force only when necessary for the maintenance of public order and in degree strictly proportional to the threat posed to public safety and order.

Hong Kong authorities should be questioned about their views on possible reactions to “Occupy Central,” and on police surveillance practices in light of the right to freedom of assembly and association. In addition, Human Rights Watch urges the Hong Kong government to revise the Public Order Ordinance to ensure that the Ordinance is in accordance with provisions of the International Covenant on Civil and Political Rights and Hong Kong’s Bill of Rights Ordinance.

Overall, Hong Kong continues to enjoy the rule of law and a high level of press freedom, but the lack of universal suffrage, reports of government interference and self-censorship of the press, increasing number of arrests and prosecutions against protestors as well as surveillance of protestors, are issues that pose serious threats to Hong Kong citizens' enjoyment of their civil and political rights.