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Samuel M. Chu

Founder/Former Managing Director, HKDC

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“U.S.-China Relations in 2021: Emerging Risks”

Panel I: Beijing’s Assertion of “Comprehensive Jurisdiction” over Hong Kong

Thank you, co-chairs, and commissioners for the opportunity to testify today.

I want to focus my remarks on the swift and complete closing of Hong Kong's civil society space in the past year, what further crackdowns could be forthcoming, and what the US can do in response.

Let me preface that what is happening in Hong Kong is not isolated; it mirrors an alarming, decade-long global trend. Closing space for civil society takes various forms: incarceration, regulations, restrictions on funding, limits to freedom of speech, digital and physical harassment, and even murder. It is unfolding in every part of the world.

The International Center for Not-for-Profit Law reported that since 2013, 103 countries had proposed more than 340 legislative initiatives that impact civil society. Of those, 244 were restrictive (72%).

For example, on August 20, 2021, Ugandan authorities announced without warning that they had halted the operations of 54 civil society and human rights groups.

Currently, the Russian Ministry of Justice lists 43 media outlets, journalists, and 76 civil society groups as "foreign agents." An additional 46 groups have been labeled "undesirable organizations."

Between February and May 2021, senior Salvadorian government officials perpetrated more than 370 digital attacks on social networks against human rights defenders. Bertha Deleón, a women's rights lawyer, has faced a mass intimidation and stigmatization campaign as well as criminal prosecution, leading her to request precautionary measures and protection from the Inter-American Commission on Human Rights (IACHR).

In the Philippines, human rights defenders and indigenous activists face threats daily as they attempt to defend their land peacefully. In the first six months of 2021, 15 human rights defenders have been murdered.

There are, however, characteristics of the crackdown on civil society specific to Hong Kong and its unique history and status as a Special Administrative Region (SAR) of the People's Republic of China (PRC).

Perhaps the most observable sign of the demise of Hong Kong's civil society is the complete and abrupt end to all peaceful public protests.

The world has been mesmerized by the images of up to 2 million Hong Kongers peacefully marching week after week in 2019. The visuals and tactics from the streets of Hong Kong spilled across the region and inspired other anti-authoritarian, pro-democracy protest movements in Thailand, Burma, and, most recently in Afghanistan.

For more than 30 years, Hong Kongers held the annual vigil commemorating the June 4 Tiananmen massacre, the only one on Chinese soil. This year, authorities banned the annual Tiananmen massacre vigil for a second straight year, citing coronavirus social distancing restrictions.

We might never witness any of them again.

Hong Kong authorities, aided by the COVID pandemic and zealous use of colonial-era Public Order Ordinance (POO), have effectively banned all public protests, rallies, vigils and criminalized the freedom of assembly.

The protest ban is especially significant for Hong Kongers because consistently, over time, mass, peaceful protests have been the most visible, effective, consistent civil society tactics in a city without a representative government.

However, since January 2020, the government has put a blanketed end to public protest by declaring them "unauthorized assembly."

The charge of "unauthorized assembly," punishable by up to five years in prison, is based on the Public Order Ordinance (POO). It requires organizers of demonstrations of more than 30 people to notify police seven days in advance. It also requires organizers to get a letter or "notice of no objection" from the police.

No "notice of no objection" has been granted to protest groups in the city since January of 2020. At the same time, POO has been used aggressively to target prominent and leading civil society actors.

On December 2, 2020, leading activist Joshua Wong was sentenced to 13.5 months for organizing and inciting a June 2019 “unauthorized assembly.” Fellow activists Agnes Chow and Ivan Lam were also sentenced to 10 and 7 months for “incitement,” based on evidence that they shouted slogans using a loudspeaker at the same protest. In May 2021, Wong, already in jail, was sentenced to an additional ten months for attending the annual June 4 vigil in 2020.

In April 2021, ten prominent pro-democracy figures were sentenced to between 8 and 18 months for participating in two “unauthorized assemblies” in August 2019. The group included Jimmy Lai, the owner, and publisher of the opposition newspaper Apple Daily, top labor leader Lee Cheuk-yan and three other former opposition lawmakers.

The court also handed down suspended sentences to former lawmakers and barristers Margaret Ng, Albert Ho, and Martin Lee - the “founding father” of the pro-democracy movement and the founding chair of Hong Kong's Democratic Party.

The suspended sentences have served as a de facto “political house arrest” and gag order – prohibiting their participation and involvement in any protest or civil society activities and contacts with international media and entities during their jail terms.

On May 28, 2021, Jimmy Lai, Lee Cheuk-yan, and Leung Kwok-hung were all given new sentences between 14 and 18 months for organizing another “unauthorized assembly” on October 1, 2020. Figo Chan, the convener of the Civil Human Rights Front (CHRF), the group behind many of the largest protests since 2002, was sentenced to 18 months.

In all, over 10,000 have been arrested for protest-related charges and 2,600 prosecuted since the start of the anti-extradition protest in 2019.

The final nail in the coffin came last month, when the Civil Human Rights Front (CHRF), the broad-based organization that once boasted more than 60 civil society groups as members and the organizer behind all the largest peaceful public protests in the city since 2002 - announced it would disband under threats of investigation and prosecution by the government.

The dissolution of CHRF is only one example of a broader, systemic dismantling of core and foundational civil society organizations.

The National Security Law has proven to be the perfect weapon against Hong Kong's civil society - forcing the self-censoring and disbanding of groups new and old. But, most importantly, the threat of NSL violations has dismantled the foundation of Hong

Kong's civil society by eliminating some of the oldest, most prominent, and most influential civil and mediating institutions in Hong Kong's history.

NSL punishes four types of activities: secession (Articles 20-21), subversion (Articles. 22-23), terrorism (Articles 24-28), and collusion with “foreign forces” (Articles 29-30), all carrying a maximum sentence of life in prison.

But in the hands of the national security forces, they have become vaguely defined, catch-all offenses to prosecute individual activists and civil society leaders while also forcing groups to self-censor and disband.

The authorities have done this by criminalizing freedom of expression as “sedition,” cast legitimate international engagement, including to the United Nations or diaspora Hong Kong groups, as “collusion with foreign forces.”

Fundraising by and donating to pro-democracy organizations or protest-related campaigns could be investigated as an NSL crime, leading to account and asset freeze and seizures.

The NSL established new PRC national security offices in Hong Kong while also giving Hong Kong police sweeping, unchecked powers, including warrantless searches, covert surveillance, and seize travel documents and deny bail of those suspected of possible future acts against national security.

In total, at least 154 individuals have been arrested under the NSL - a majority of those arrested languish behind bars without bail.

These arrests have fundamentally altered the civil society space and stoke fears for future prosecution among civil society groups and actors. As a result, many civil society groups have chosen to disband voluntarily:

January 16: **The Union for New Civil Servants** disbanded after officials threatened to dismiss workers refusing to pledge fealty to the Chinese Communist Party and "protect national security."

June 2: **The Good Neighbor North District Church**, which has aided protestors, disbanded after the police froze its bank account on suspicion of money laundering

June 28 and 30: Two major medical professional groups **Frontline Doctors Union** and **Médecins Inspirés**, both active and vocal against the government responses to the protest and COVID, announced they would disband

July 6: The **Progressive Lawyers Group (PLG)**, founded in 2015, disbanded

August 10: The **Hong Kong Professional Teachers' Union (HKPTU)**, Hong Kong's largest teachers' union representing 95,000 members and 90% of the teachers in the city, announced they would dissolve after 47 years of operations

August: **612 Humanitarian Relief Fund** announced it would cease operation by October 31. It has distributed more than HK\$243 million (US\$31.2 million) to protesters facing prosecution or financial hardship because of the protest movement since 2019

August 13: **Civil Human Rights Front (CHRF)**, organizer of some of the largest protests, announced they would disband

August: **Hong Kong Alliance in Support of Patriotic Democratic Movements of China**, the group behind the annual June 4 vigil since 1989, announced it would dissolve. Despite that, last week, the police's national security unit accused the Alliance of being "an agent of foreign forces" and demanded information about its membership, finances, and activities.

September 3: **Hong Kong Pastors Network**, a group of Christian clergy, who organized numerous prayer vigils in support of the protest movement, announced it has ceased operations and disbanded.

Many of the disbanded groups encountered a similar pattern of threats, attacks, and government investigation.

Pro-Beijing media, sometimes Hong Kong government officials, would publicly criticize and suggest that a group's activities might have run afoul of the NSL. The Professional Teachers' Union (PTU) was described by CCP mouthpieces the *People's Daily* and Xinhua as "**a malignant tumor.**" Hours later, the government cut ties with the union, announcing that officials would no longer consult and cooperate with them on matters of mutual concern. Days later, PTU announced it would dissolve.

Groups also faced arbitrary and irregular government investigations. Though Civil Human Rights Front (CHRF) had organized marches with police permission for 19 years, Hong Kong Police Commissioner Raymond Siu suggested in an interview with pro-Beijing newspapers that **CHRF broke local laws by not registering as a company with the Companies Registry and as a legal society with the police force.**

This week, police obtained court orders under NSL to require the 612 Humanitarian Relief Fund to disclose its source of donations, donor information, and the purpose of donations. The fund has distributed more than HK\$243 million (US\$31.2 million) to protesters facing prosecution or financial hardship because of the protest movement since 2019

But by far, the largest group of NSL arrests and prosecution came against those who organized and took part in the June 2020 Legislative Council (LegCo) primaries. **The primaries were conceived and implemented as a civil society-led process to build engagement and leverage in a decisively undemocratic general election process.**

Furthermore, those arrested were not merely traditional politicians - they are leaders and organizers from labor, journalists, LGBT, ethnic minorities, women's rights, sending a chill across the full spectrum of civil society groups.

I was also asked by the Commission to briefly address **the impact of NSL and its complete capture of the education system in Hong Kong.**

Since 2019, authorities have begun **deregistering teachers** for introducing protest or pro-democracy-related themes or materials in the classroom. Others were targeted for their protest participation or political views shared online outside classrooms and schools. 269 complaints accusing teachers of misconduct have been filed from June 2019 to December 2020, and 154 have been disciplined - many of them based on anonymous complaints.

Earlier this year, the government announced the **imposition of national security education** as part of the "necessary measures to strengthen public communication, guidance, supervision, and regulation over matters concerning national security, including those relating to schools, universities, social organizations, the media, and the internet."

Students as young as 6 years old will learn how to sing and respect China's national anthem and be taught what constitutes offenses such as "sedition" or "collusion" and their associated and appropriate penalties.

The Education Bureau has issued a new curriculum designed to instill "affection for the Chinese people"; geography lessons must affirm China's claim over disputed areas of the South China Sea. Bringing a copy of the newspaper Apple Daily to the classroom or teaching a class about the 1989 Tiananmen protest could mean a lifetime ban from teaching.

The total capture of the education does not confine to the classrooms and official curriculum.

Five members of the General Union of Hong Kong Speech Therapists were arrested in late July. They were subsequently remanded in custody after being charged with “sedition” over a series of children’s books about sheep defending their village from invading wolves. The government accused them of “inciting” hatred against the government.

And as noted, HKPTU, the single largest trade union in Hong Kong with 95,000 members (90% of the city’s teachers), was forced to dissolve, citing enormous political pressure.

Using COVID health measures and Public Order Ordinance to outlaw public protests and wielding the threat of NSL prosecutions to uproot and bulldozed foundational civil society groups, the space for civil society in Hong Kong has, for all intent and purposes, been closed.

Hong Kongers now live in a self-described “white terror,” extending far beyond the traditional civil society spaces.

Two other features illustrate how far-reaching and total the closure of civil society space in Hong Kong has been.

On November 5, 2020, police launched a “tip line” for residents to report suspected NSL violations. The phone line registered more than 100,000 messages in the first six months. In June, police arrested a 37-year-old man on suspicion of “sedition” after receiving anonymous tips that stickers he placed on the gate to his apartment potentially violated the NSL. **By turning neighbors, coworkers, and even family members into monitors and informants, the authorities are snuffing out not only collective, public actions but also controlling individual and everyday activities of individuals.**

Lastly, the closure and crackdown do not end at the borders. The NSL (Article 38) details how foreign nationals committing acts outside Hong Kong and China are criminally liable under the law. Such foreigners could be arrested upon arrival in Hong Kong. This claim of **extraterritorial jurisdiction** was the basis of the arrest warrants issued against me, a US citizen, last July. The **harassment and threats to civil society groups and individuals extend overseas**, as illustrated by the recent sanction by the PRC Ministry of Foreign Affairs against the US organization I founded supporting the movement.

What changes are forthcoming?

Pro-democracy and civil society leaders will continue to be prosecuted and detained.

The attacks on civil society groups will also continue. Last month, Chief Executive Carrie Lam warned the Law Society of Hong Kong days ahead of its leadership election that if the group's "professional role is overridden by politics, the government will consider severing its relationship with it."

Beijing will "astroturf" a state-sponsored "grassroots" sector. As part of Beijing-imposed election process, hundreds of new groups, with names like "Modern Mammy Group" or "Sea Bear Swimming Club", and the "Sea Bear Squash Club" registered at the same address will now be allowed to help select the new chief executive.

It will take a concerted effort to preserve and restore Hong Kong's civil society - and the US can and must play a leading role.

The US must raise the profile of the role of civil society and the closing space issue by continuing to monitor restrictions, increase Consulate involvement, and highlight the issue at high-profile events such as the upcoming White House Summit for Democracy in December.

Respond to any civil society crackdown and attacks with targeted sanctions and public condemnation.

Reconstitute the interagency working group on civil society and roles such as the State Department's Senior Advisor for Civil Society and Emerging Democracies to coordinate programs and policies impacting civil societies globally.

Continue to provide **emergency financial support in response to threats** against civil society activists via programs like Lifeline Embattled CSO Assistance Fund. Extend those support to activists overseas.

Require reporting and briefing on whether the Chinese government and affiliated entities have engaged in **intimidation or harassment of any groups and individuals** in the US.

Fund civil society abroad. Congress recently included a \$10 million appropriation request to strengthen the pro-democracy movement in Hong Kong. The US must adapt more sensitive and flexible funding methods consider investing in diaspora groups.

Welcome civil society leaders fleeing Hong Kong through temporary and permanent status, visa, refugee, asylum, and humanitarian support.

Expand **peer-to-peer exchanges** between the US and Hong Kong.

The rapid and complete closing space for civil society is not abstract or merely academic.

I marched in the first million Hong Kongers' protest supporting Tiananmen students on May 21, 1989. During that march, the Hong Kong Alliance was formed. My father, the Rev. Chu Yiu Ming, served on its standing committee from that day until last year. He did so alongside Szeto Wah, the founding chair of both the Alliance and the Teachers' Union until his passing in 2011.

Through the Alliance, my father helped launch "Operational Yellowbird" - the smuggling operation that rescued 400 activists who escaped the Tiananmen massacre. Fearing retribution, my father sent me to study and live in the US. But I returned to Hong Kong over the years to light candles at the June 4 vigils at Victoria Park organized by the Alliance.

In 2014, I joined my father at Occupy Central, the civil disobedience campaign he co-founded with Benny Tai and Kin Man Chan that grew into the Umbrella Movement. They were later arrested, tried, convicted, and sentenced to jail.

After their trial in 2019, I returned to DC and launched the Hong Kong Democracy Council, where I served as managing director until recently. Our organizing and advocacy made us one of the most frequent targets of CCP's rage and retaliation.

For me - and so many Hong Kongers - Hong Kong's civil society is personal and generational. It is how we mark the passage of time and history as Hong Kongers.

We must preserve the memories, artifacts, and talents in this critical moment.

Chow Hang-tung, a barrister and vice-chair of the Alliance, is one of the few leaders still free on bail while awaiting trial. Two weeks ago, the government launched an investigation into the Alliance, accusing its leaders of being "foreign agents" and demanding information on membership and finances.

Pro-Beijing mouthpieces have attacked one of the group's slogans and core mission - "ending one-party rule" - as being seditious and subversive. When asked if the group would ever consider abandoning the slogan and goal to appease the authorities, Chow stated defiantly and simply that:

"If we change that, we are not us anymore."

We have not given up, and we ask that the world not give up on us.