Congressional-Executive Commission on China

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“No More Safe Harbor in Hong Kong”

**Testimony of Martin Lee Chu-ming, barrister and founder of the Democratic Party of Hong Kong; Former Member of the Legislative Council of Hong Kong**

Thank you for the invitation to this hearing at a moment of genuine crisis for Hong Kong and our free society.

Until today, there have been no extradition arrangements between Mainland China and many countries with the rule of law such as Britain, Canada, and the United States.

There is a good reason for this, namely, because the standards of the legal and judicial systems of Mainland China are not, as acknowledged even by Chinese leaders, up to international standards.

The heart of this crisis is that Beijing views extradition as a political tool—not as a legal matter.

Before and after the 1997 handover of Hong Kong from the UK to China, we have fought to preserve our rule of law under the principle of “one country, two systems” guaranteed by the Sino-British Joint Declaration which was entered into between the British and Chinese Governments in December 1984.

For generations, Hong Kong has been a safe harbor from the chaos of Communist China.

Yet in February 2017, Chinese-Canadian billionaire businessman Xiao Jianhua was [abducted](https://www.nytimes.com/2017/01/31/world/asia/xiao-jianhua-china-hong-kong-billionaire.html) in Hong Kong at the Four Seasons Hotel by mainland agents and spirited off to China and not seen since**.**

In 2015, five Hong Kong publishers vanished.  One of them, Lam Wing-kee, recalled how he was kidnapped and forced to make a televised confession.  “I want to tell the whole world,” [Lam said](https://www.washingtonpost.com/news/worldviews/wp/2016/06/17/complete-lawlessness-booksellers-dramatic-tale-spooks-hong-kong-underlines-concern-for-swede/?utm_term=.bb404de8d266) after escaping. “This isn't about me, this isn't about a bookstore, this is about everyone."

The reason these people were abducted is that there is no extradition law between Hong Kong and China.

If the U.S. and other governments around the world don’t act immediately to pressure Beijing and Hong Kong to withdraw the changes, the Hong Kong government will ram through by early July an extradition law that will legalize kidnappings and threaten to destroy Hong Kong’s free society.

The law will allow Hong Kong’s Chief Executive Carrie Lam, who has shown no independence from Beijing, to transfer anyone at China’s request, requiring only a simple affidavit that a “crime” of some kind has happened.

If, in the future, the Chinese Government wishes to have someone in the Mainland, will the Hong Kong Government really be in a position to reject any such request? On the contrary, once a request is made, such an application will very likely be approved, as the Hong Kong Government will not dare to act against the Chinese Government’s wishes. And there is little that the judges in the Hong Kong courts can do since all that required is proof of a *prima facie* case.

As reported, President Xi Jinping said in a closed-door meeting last year that China will follow “law-based governance” and develop its legal system in a way that best corresponds to its needs, but it will never embrace the judicial independence in the West. For Hong Kong people, it is a sign we need to fortify our legal system as the last barrier against Beijing’s political intrusions.

In April, [130,000 Hong Kong citizens](https://www.scmp.com/news/hong-kong/politics/article/3007999/thousands-set-join-protest-march-against-proposed) turned out in our city’s narrow streets to oppose extradition to China.  But public opinion can’t stop this law.

Over the past five years, Beijing disqualified six elected Hong Kong pro-democracy legislators—including youth leader Nathan Law, who you will hear from today. Control of the Legislative Council is assured.

Despite efforts by democratically elected legislators—including [unprecedented fisticuffs](https://www.nytimes.com/2019/05/11/world/asia/hong-kong-extradition-law.html?smid=nytcore-ios-share) in the Legislative Council last Saturday—the Hong Kong government has the votes to rubber stamp the extradition law quickly.

The U.S. has a special interest in blocking this law—and indeed may be Beijing’s special target of the law. There are 85,000 U.S. citizens living or working in Hong Kong, which for decades has been their safe harbor for those operating in greater China—teachers and preachers, as well as executives of 1,300 U.S. companies in Hong Kong, including financial services firms and technology giants like Google.

Beijing could extradite Americans in Hong Kong on trumped-up charges as a way to extract company trade secrets, software and other intellectual property.  The U.S. has no extradition law with China, but it does with Hong Kong.  This means Americans either resident in Hong Kong or visiting Hong Kong could end up jailed in China.

The American Chamber of Commerce in Hong Kong strongly objected to the proposed extradition law, citing “grave concerns” about the absence of the rule of law in China.  The [US-China Economic and Security Review Commission](https://nam02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.uscc.gov%2Fsites%2Fdefault%2Ffiles%2Fannual_reports%2F2018%2520Annual%2520Report%2520to%2520Congress.pdf&data=02%7C01%7Cwordenm%40hrw.org%7C55e4f64f0a534db58a9808d6d6e3e765%7C2eb79de4d8044273a6e64b3188855f66%7C1%7C0%7C636932671665181158&sdata=3Chy%2FFqJi78Xnx6T9WNgH1D%2FyoEQRuBSknkPLrvZ9%2F8%3D&reserved=0), a group that advises Congress, says the change in extradition law “could pose significant risk to U.S. national security and economic interests in the territory,” allowing “Beijing to pressure the Hong Kong government to extradite U.S. citizens under false pretenses.”

The commission noted that U.S. Navy personnel could be at risk during routine port calls in Hong Kong’s deep harbor.

In the case of Canada’s arrest of the chief financial officer of mainland telecommunications giant Huawei, Beijing objects to Canada extraditing the accused to the U.S. to face charges, treating it as a matter of international politics, not extradition law.

The Hong Kong government claims it is rushing through changes in extradition to close a so-called legal “loophole”—but this supposed loophole has existed for more than two decades.  The loophole is no threat to Hong Kong citizens’ freedoms, whereas the proposed amendments to the extradition law certainly are.

By demanding this law, Beijing violates the spirit of the Joint Declaration, with its “one country, two systems” pledge that Hong Kong would not be forced to adopt Communist laws and systems and could remain an international city safeguarded by the rule of law.

Hong Kong became a world-class city in part because of the trade that flows through our harbor. The legal protections for its residents from the U.S. and around the world are an equally important safe harbor.

If this extradition law is passed, Americans and many other nationalities could become potential hostages to extradition claims driven by the political agenda of Beijing.

The time to protect Hong Kong’s free society and legal system is now—not when our rule of law is compromised and Hong Kong people and others are taken to be jailed in China.