

**Written Submission To the Conservative Party Human Rights Commission
On Hong Kong for the period March 2016 to present**

**By Victoria Tin-bor Hui, Associate Professor in Political Science, University of Notre Dame
(Email: thui@nd.edu; Office address: 2060 Jenkins Nanovic Halls, Department of Political Science, University of Notre Dame, Notre Dame, IN 46556, USA)**

Beijing Has Turned “One Country, Two Systems” Into Capitalism Without Freedom

Beijing and London have diametrically opposed understandings of the “one country, two systems” model: Beijing views the “two systems” primarily in terms of the socialist system in Mainland China versus the capitalist system in Hong Kong, but Hongkongers and the rest of the world take seriously freedoms in Hong Kong versus one-party dictatorship in Mainland China. Beijing has tried to benefit from Hong Kong’s special economic status while stifling its freedoms. This lies behind various repressive measures since the last report in 2016.

From 2016 to 2019

Events since 2016 have followed the trend set after the Umbrella Movement of 2014.¹ To prevent Umbrella Movement 2.0, Chen Zuor, former deputy director of HKMAO, vowed in December 2014 to tighten “Hong Kong’s governance”. He declared “a long-term struggle with the forces that bring calamity to Hong Kong”, taking the fight “from the street to the law courts, to the Legislative Council, to inside the government, and to universities and secondary schools”.²

Controlling the Hong Kong government and the legislature had long been Beijing’s priority. This time, Beijing would take a step farther. Ahead of the Legislative Council elections in 2016, the authorities barred an independence advocate Edward Leung from running. Leung’s allies, Wai-ching Yau and Chung-hang Leung, were nevertheless elected and displayed a “Hong Kong is not China” flag during their swearing-in ceremony in October 2016. The then Chief Executive Chun-ying Leung asked the court to disqualify them. But before the court issued a verdict, Beijing issued a binding interpretation of the Basic Law in November that was then used to retroactively disqualify any legislator-elect who made revisions or additions to the formal oath.³ Faced with a strident and binding Beijing interpretation, the court fully complied and expelled the duo from the Legislative Council. The Department of Justice sought to disqualify four more legislators who never supported independence but played with the language in their oath of office: Democracy Groundwork’s Siu-lai Lau, Demosisto’s Nathan Law, the League of Social Democrats’ Kwok-hung

¹ Victoria Hui, “Beijing reins in Hong Kong,” East Asia Forum, 1 September 2017, <http://www.eastasiaforum.org/2017/09/01/beijing-reins-in-hong-kong/>.

² Tony Cheung and Fanny W. Y. Fung, “Now Hong Kong must face the big questions in wake of Occupy”, *South China Morning Post*, 13 Dec. 2014, <http://www.scmp.com/print/news/hong-kong/article/1661573/now-city-must-face-big-questions-wake-occupy>.

³ Karen Cheung, “China’s power to interpret Hong Kong’s Basic Law ‘greatest threat to rule of law,’ Bar Assoc. Head”, *Hong Kong Free Press*, 6 March 2018, <https://www.hongkongfp.com/2018/03/06/chinas-power-interpret-hong-kongs-basic-law-greatest-threat-rule-law-bar-assoc-head/>.

Leung and architectural sector lawmaker Edward Yiu. Beijing's interpretation was a direct interference with the judiciary's independence.⁴

Chen Zuor also complained in a closed meeting in November 2016 that Umbrella leaders were not being dealt with harshly enough in local courts.⁵ The Department of Justice took the cue and appealed against the light community service given to young activists. In August 2017, the Court of Appeal handed down jail terms of six to eight months for student leaders Joshua Wong, Nathan Law (also one of the disqualified legislators) and Alex Chow. By April 2019, Benny Tai and eight more Umbrella leaders were also handed down prison sentences of up to 16 months for conspiracy to cause public nuisance, inciting others to cause public nuisance, and inciting people to incite others to cause public nuisance.⁶

As universities had become hotbeds of dissent, the Chief Executive stacked university councils with pro-regime appointees, who would then duly appoint the "right" candidates to top positions.⁷ In secondary schools, patriotic education was re-introduced in piecemeal fashion.⁸

Other developments have been no less disconcerting.

In January 2016, Lee Bo, a bookseller at Causeway Bay Books, was kidnapped from Hong Kong and taken across the border. Even more scandalous was the abduction of Xiao Jianhua, a businessman with close ties to China's political elite, from the Four Seasons Hotel on 27 January 2017.

In September 2018, the Hong Kong government ceded to Mainland jurisdiction parts of the West Kowloon high-speed railway terminal.⁹ Hong Kong residents have since been arrested in the Mainland area of the station and taken across the border.

⁴ Elson Tong, "Interview – Beijing's restraint with Hong Kong's rule of law has expired, says law prof. Johannes Chan", Hong Kong Free Press, 25 June 2017, <https://www.hongkongfp.com/2017/06/25/hk20-interview-beijings-restraint-hong-kongs-rule-law-expired-says-law-prof-johannes-chan/>.

⁵ Christy Leung, "'No mercy' for Hong Kong's pro-independence 'rats' says head of top Beijing think tank", *South China Morning Post*, 30 Nov., 2016 <https://www.scmp.com/news/hong-kong/politics/article/2050425/no-mercy-hong-kongs-pro-independence-rats-says-head-top>.

⁶ Gerry Shih, "Hong Kong court imprisons 'Umbrella Movement' leaders for up to 16 months", *Washington Post*, 24 April 2019, https://www.washingtonpost.com/world/asia_pacific/hong-kong-court-imprisons-umbrella-movement-leaders-for-up-to-16-months/2019/04/24/ebf26586-6643-11e9-83df-04f4d124151f_story.html.

⁷ Joyce Ng and Gloria Chan, "University of Hong Kong's council votes 12-8 to reject Johannes Chan's appointment as pro-vice-chancellor", *South China Morning Post*, 29 Sept. 2015, <https://www.scmp.com/news/hong-kong/education/article/1862423/university-hong-kongs-council-votes-12-8-reject-johannes>.

⁸ Kris Cheng, "National education scheme was never suspended in Hong Kong schools, says incoming education chief", Hong Kong Free Press, 22 June 2017, <https://www.hongkongfp.com/2017/06/22/national-education-scheme-never-suspended-hong-kong-schools-says-incoming-education-chief/>.

⁹ James Pomfret, "Unscheduled departure: China's legal reach extends to Hong Kong rail station", Reuters, 4 Sept. 2018, <https://uk.reuters.com/article/uk-hongkong-china-rail/unscheduled-departure-chinas-legal-reach-extends-to-hong-kong-rail-station-idUKKCN1LK0IM>.

Also in September 2018, the government banned the pro-independence Hong Kong National Party.¹⁰ Months later, Chief Executive Carrie Lam submitted a report to Beijing when Chinese officials requested details.¹¹ Many in Hong Kong criticized this move as contradicting the Basic Law promise that Hong Kong would run its own internal affairs. The Hong Kong government also refused to renew the visa of *Financial Times* correspondent Victor Millet, who had hosted a talk by the party's founder Andy Chan at the Foreign Correspondents' Club.¹²

Xi Jinping has defended the disqualification of legislators, the banning of the Hong Kong National Party and the expulsion of Victor Millet because such individuals and groups "damaged national security, challenged the central government's and the Basic Law's authority, took actions to infiltrate the Mainland", – in short, "crossed the bottom line of 'one country, two systems'".¹³ What this means is that Hongkongers' insistence on exercising the freedoms that they are promised in the Joint Declaration and the Basic Law crosses Beijing's vision of capitalism without freedom.

The Anti-Extradition Protests since 2019

By early 2019, it looked as if Beijing had firmly reined in Hong Kong. In February, the Hong Kong government proposed to amend the Fugitive Offenders Ordinance and the Mutual Legal Assistance in Criminal Matters Ordinance to allow extradition from Hong Kong to Mainland China. Chief Executive Carrie Lam pledged that the bill came from her own volition. But Reuters reports that the order came from the Central Commission for Discipline Inspection which was seeking a less politically damaging mechanism than extrajudicial kidnappings.¹⁴ The extradition bill would have torn down the last firewall that separated a still relatively professional judiciary in Hong Kong from politicized courts subservient to the ruling party across the border.¹⁵

When Umbrella leaders called for a mass demonstration against the extradition law, 130,000 turned out on 28 April.¹⁶ On 9 June, a million marched. On 12 June, tens of thousands

¹⁰ Kris Cheng, "Pro-independence party officially banned by Hong Kong govt in historic move restricting freedom of assembly", Hong Kong Free Press, 24 September 2018, <https://www.hongkongfp.com/2018/09/24/breaking-pro-independence-party-officially-banned-hong-kong-govt-historic-move-restricting-freedom-assembly/>.

¹¹ Holmes Chan, "In full: Hong Kong leader Carrie Lam submits report to Beijing on banning pro-independence party, makes doc public", Hong Kong Free Press, 18 April 2019, <https://www.hongkongfp.com/2019/04/18/just-hong-kong-leader-carrie-lam-submits-report-beijing-banning-pro-independence-party-makes-doc-public/>.

¹² Jeffie Lam, Tony Cheung and Sum Lok-kei, "Backlash as Hong Kong denies visa renewal for Financial Times journalist Victor Millet", *South China Morning Post*, 5 Oct., 2018, <https://www.scmp.com/news/hong-kong/politics/article/2167149/hong-kong-denies-visa-renewal-foreign-journalist-who-chaired>.

¹³ "Insisting and perfecting 'One country, two systems'", *Takung Pao*, 9 Nov. 2019, <http://www.takungpao.com.hk/hongkong/text/2019/1109/371628.html>.

¹⁴ David Lague, James Pomfret and Greg Torode, "How murder, kidnappings and miscalculation set off Hong Kong's revolt", Reuters, 20 Dec. 2019 <https://www.reuters.com/investigates/special-report/hongkong-protests-extradition-narrative/>

¹⁵ See Michael C. Davis and Thomas E. Kellogg, "The Promise of Democratization in Hong Kong," National Democratic Institute/Georgetown Law, 23 April 2020, <https://www.ndi.org/publications/promise-democratization-hong-kong>

¹⁶ Jennifer Creery, "In Pictures: 130,000 protest looming China extradition law, say organisers, after Hong Kong jails Umbrella Movement leaders", Hong Kong Free Press, 28 April 2019,

surrounded the Legislative Council building to block legislators from going in for a scheduled reading of the bill. The police used excessive force against protesters in full view of local and international media.¹⁷ At nightfall, the government labeled the day's events as "riots" and charged the arrested for "rioting". Lam vowed to push on but then "suspended" the bill on 15 June. Hongkongers were both emboldened by the small "victory" and enraged by police brutality on 12 June. Up to 2 million demonstrated on 16 June to demand that Hong Kong authorities formally withdraw the extradition bill, open an independent investigation into police abuses, drop the "riot" characterization of the protests, release those arrested on rioting charges, and reopen a dialogue on genuine universal suffrage truncated in 2014. Lam stubbornly refused to formally withdraw the bill until 4 September.

Protests lasted through Fall and Winter into 2020. Confrontations spread from the streets to train stations, shopping malls and residential buildings across all major neighborhoods. Police resorted to massive arrests and brutal beatings of protesters. In turn, black-clad people (some were protesters and some could be agents provocateur) threw firebombs, stabbed officers, meted out vigilante justice to regime supporters, desecrated Beijing's authority symbols, and vandalized pro-Beijing businesses.¹⁸

Chinese leaders, who had been alarmed by the non-violent Umbrella Movement, were shocked by the much more volatile anti-extradition protests. Beijing resorted to the same response, doubling down on the erosion of freedoms which had fueled protests in the first place.

Most notably, Beijing came out of the shadow to exercise thinly veiled direct rule since the million-strong march on 9 June. Beijing institutionalized a structure of "two administrations" in Hong Kong after half a million protested against the national security bill in 2003.¹⁹ The "first administration" is headed by the Chief Executive, who is technically selected by the 1200-member election committee but is in fact handpicked by Beijing. S/he exercises the power of appointments and promotions to fill the Department of Justice, the police, and the civil service with loyalists. The Chief Executive can control even non-governmental sectors through funding

<https://www.hongkongfp.com/2019/04/28/pictures-130000-protest-looming-china-extradition-law-say-organisers-hong-kong-jails-umbrella-movement-leaders/>.

¹⁷ Hong Kong Civil Rights Observers, "Report On Police Use Of Force In Handling The Anti-Extradition Bill Protest In And Around Admiralty, Hong Kong On 12 June 2019", 19 Jan., 2020, <http://hkcro.org/report/CRO-612report-Eng.pdf>. Barbara Marcolini, Haley Willis, Javier C. Hernández, Tiffany May, Elsie Chen, Drew Jordan and Shane O'Neill, "Did Hong Kong Police Use Violence Against Protesters?" *New York Times*, 14 July, 2019, <https://www.nytimes.com/video/world/asia/100000006602584/hong-kong-police-protest-video-investigation.html>.

¹⁸ Victoria Tin-bor Hui, "Beijing's All-Out Crackdown on the Anti-Extradition Protests in Hong Kong", *China Leadership Monitor*, Issue 62, 1 December 2019, <https://www.prcleader.org/victoria-hui>; Victoria Tin-bor Hui, "Hong Kong citizens just voted for more democracy. What happens now?" *Monkey Cage*, Washington Post, 26 Nov., 2019, <https://www.washingtonpost.com/politics/2019/11/26/hong-kong-citizens-just-voted-more-democracy-what-happens-now/>.

¹⁹ Russell Hsiao's interview, Hong Kong, July 11, 2019, A Preliminary Survey of CCP Influence Efforts in Hong Kong *China Brief*, Volume 19 Issue 14, 31 July, 2019, <https://jamestown.org/program/a-preliminary-survey-of-ccp-influence-efforts-in-hong-kong/>.

and licensing. The “second administration” is Beijing’s Liaison Office in Hong Kong established in 2000. The former director Wang Zhimin famously commented that, “it is good that Central (the Hong Kong government) and Western Districts (the Liaison Office) work together”.²⁰ These arrangements effectively turned the promise of “Hong Kong people ruling Hong Kong” into “Beijing appointees ruling Hong Kong” and “Western District ruling Hong Kong”.

Since June 2019, the Central Coordination Group for Hong Kong and Macau Affairs (HKMAO) chaired by Vice Premier Han Zheng began to directly mete out decisions from Bauhinia Villa in Shenzhen.²¹ Before Lam “suspended” the extradition bill, she had met with Han. When a Reuters correspondent asked in August if Lam had the autonomy to withdraw the bill, she had no answer.²² She admitted in a leaked audio that, “Once an issue has been elevated ... to a sort of sovereignty and security level..., the political room ... for maneuvering is very, very, very limited”.²³

At the same time, HKMAO in Beijing called rare pressers to comment on the unfolding unrests. On 29 July, spokespersons highlighted the central government’s support for the Lam government and the Hong Kong police to stop unlawful acts.²⁴ On 6 August, they reiterated their backing of Lam and called for the police to end the protests, which had “changed in nature”.²⁵ On 8 August, then HKMAO director Zhang Xiaoming said the protests were taking on “color revolution characteristics” and warned that “the central government will not sit back and do nothing”.²⁶ The then Liaison Office director Wang Zhimin added that the “patriotic camp” should join in this “war of life and death”.²⁷ On 12 August, HKMAO spokespersons remarked that the protests were showing “signs of terrorism”.²⁸ On 3 September, they continued to condemn the

²⁰ “Wang Zhimin’s ‘Central and Western Districts Coming Together’ once stirred up controversy”, *Sing Tao Daily USA*, 4 Jan. 2020, <https://www.singtaousa.com/home/19-即時港聞/2644275-王志民「中環西環行埋」論曾惹熱議/>.

²¹ David Lague, James Pomfret and Greg Torode, “How murder, kidnappings and miscalculation set off Hong Kong’s revolt”, Reuters, 20 Dec. 2019, <https://www.reuters.com/investigates/special-report/hongkong-protests-extradition-narrative/>.

²² “HK leader challenged: ‘Have your hands been tied by Beijing?’” Reuters, 13 August, 2019, <https://www.reuters.com/video/2019/08/13/hk-leader-challenged-have-your-hands-bee?videoid=586904474>.

²³ “Exclusive: The Chief Executive ‘Has to Serve Two Masters’ - HK leader Carrie Lam – Full Transcript”, Reuters, 12 Sept. 2019, <https://af.reuters.com/article/worldNews/idAFKCN1VXOPO>.

²⁴ SCMP Reporters, “As it happened: how Beijing expressed ‘resolute support’ for Hong Kong’s government”, *South China Morning Post*, 29 Jul, 2019, <https://www.scmp.com/news/hong-kong/politics/article/3020466/hong-kong-and-macau-affairs-office-speak-extradition-bill>.

²⁵ SCMP Reporters, “Hong Kong’s government and police ‘completely capable’ of protecting law and order, key Beijing official says, ruling out need for PLA to be mobilized”, *South China Morning Post*, 6 Aug, 2019, <https://www.scmp.com/news/hong-kong/politics/article/3021584/will-beijing-press-briefing-offer-way-defuse-hong-kongs>.

²⁶ Kris Cheng, “Beijing deems Hong Kong protests ‘colour revolution,’ will not rule out intervention”, *Hong Kong Free Press*, 8 August 2019 <https://www.hongkongfp.com/2019/08/08/beijing-deems-hong-kong-protests-colour-revolution-will-not-rule-intervention/>.

²⁷ Ibid.

²⁸ Sarah Zheng, “Beijing warns of ‘signs of terrorism’ in violent unrest in Hong Kong,” *South China Morning Post*, 12 Aug, 2019 <https://www.scmp.com/news/china/politics/article/3022438/beijing-warns-signs-terrorism-violent-unrest-hong-kong>.

“political terror” and entreated all branches of government and public agencies to join forces to end the violence and restore order.²⁹

During the summer of 2019, there was much talk if the People’s Liberation Army would crush the protests.³⁰ Beijing has sought other means of repression that would allow it to erode Hong Kong’s freedoms while keeping its special economic status.

Beijing’s public security ministry joined the coordination group in fall 2019. When Lam met with Xi on 4 November, Minister of Public Security Zhao Kezhi was in attendance. When Lam delivered her annual work report to Xi on 16 December, Guo Shengkun, China’s “security czar” (Zhao’s boss) and head of the Central Political and Legal Affairs Commission, was present.³¹ When Hong Kong’s new police chief Chris Tang made his first official visit to Beijing on 6-7 December 2019, he met with the same Guo and Zhao in addition to the then HKMAO director. Their involvement indicates that law enforcement, an area that should be highly autonomous, has come under Beijing’s direct purview.

Beijing officials from Xi on down have urged the Hong Kong police to “punish violent and unlawful acts” and praised their “forceful actions” against “rioters”.³² The result is visible: the Hong Kong’s police, once “Asia’s finest”, overnight became “just another Mainland force” acting with impunity.³³ The police seem to have followed a decapitation strategy to inflict maximum injuries on protesters and supporters.³⁴ They have regularly fired tear gas, rubber bullets, beanbag rounds, and water cannons at high velocity, at head level, and at close range, so that even technically non-lethal crowd-control weapons could cause severe injuries.³⁵ Since 11 August 2019, police officers have routinely beaten the arrested with batons, pinned them down and

²⁹ SCMP Reporters, “As it happened: All branches of government, including judiciary, must help stop violence and restore order, says Beijing’s top Hong Kong office”, *South China Morning Post*, 3 Sep, 2019, <https://www.scmp.com/news/hong-kong/politics/article/3025479/beijings-top-office-hong-kong-affairs-holds-fourth-press>.

³⁰ Michael C. Davis and Victoria Tin-bor Hui, “Will China Crush the Protests in Hong Kong?” *Foreign Affairs*, August 5, 2019, <https://www.foreignaffairs.com/articles/china/2019-08-05/will-china-crush-protests-hong-kong>.

³¹ Jun Mai, Echo Xie and William Zheng, “Why was China’s domestic security chief Guo Shengkun at Carrie Lam’s meeting with Xi Jinping?” *South China Morning Post*, 17 Dec. 2019, <https://www.scmp.com/news/china/politics/article/3042352/why-was-chinas-domestic-security-chief-guo-shengkun-carrie-lams>.

³² Laura Zhou, “Xi Jinping again backs Hong Kong police use of force in stopping unrest”, *South China Morning Post*, 14 Nov. 2019, <https://www.scmp.com/news/china/politics/article/3037811/xi-jinping-again-backs-hong-kong-police-use-force-stopping>.

³³ Chris Yeung, “HK Police Now Just Another Mainland Force”, *Voice of Hong Kong*, 13 Aug., 2019, <http://www.vohk.hk/2019/08/13/hk-police-now-just-another-mainland-force/>.

³⁴ Victoria Tin-bor Hui, “Beijing’s Hard and Soft Repression in Hong Kong,” *Orbis: FPRI’s Journal of World Affairs* 64, 2, 2020, pp. 289-311 (<https://authors.elsevier.com/a/1aone6wyH76HO>).

³⁵ K.K. Rebecca Lai and Austin Ramzy, “1,800 Rounds of Tear Gas: Was the Hong Kong Police Response Appropriate?” *New York Times*, Aug. 18, 2019, <https://www.nytimes.com/interactive/2019/08/18/world/asia/hong-kong-tear-gas.html>.

rubbed their faces against the ground, pepper-sprayed their wounds, and broken their bones.³⁶ Officers even fired live ammunition with near-fatalities on 1 October and 11 November. Chris Tang, immediately after his promotion to police chief in November 2019, assumed command of an assault on protesters at Hong Kong Polytechnic University. Hong Kong analysts suspect that he had a deliberate strategy to lure hardcore protesters to “defend” Polytechnic and then arrest them.³⁷ In this single operation, the police detained 1,377 and registered 318 below the age of 18.³⁸ When supporters poured into nearby areas to divert the police, police vehicles rammed them at high speed, causing a stampede with traumatic injuries.³⁹ In detention centers, the arrested have been routinely denied access to families and lawyers for hours.⁴⁰ A significant number of detainees have been subject to further bone fractures, brain bleeding, and sexual assault.⁴¹

The police have targeted not just protesters, but also medical volunteers, social workers, elected councilors, reporters and passersby.⁴² Moreover, they have colluded with gangsters who indiscriminately beat up locals with wooden sticks and metal rods at the suburban Yuen Long train station on 21 July.⁴³ Critics point out that Chris Tang was once the district commander of Yuen Long and may be linked to the mobs.⁴⁴ When Lam’s deputy, Chief Secretary

³⁶ Barbara Marcolini, “‘I Was Begging for Mercy’: How Undercover Officers in Hong Kong Launched a Bloody Crackdown”, *New York Times*, 22 Sept. 2019, <https://www.nytimes.com/2019/09/22/world/hong-kong-police-protests.html>.

³⁷ Chi-kin Lo, “What was the purpose for manufacturing the Polytechnic tragedy?” *Hong Kong Citizen News*, 19 Nov., 2019, <https://www.hkcnews.com/article/24918/圍困理工-1117 理工衝突-鄧炳強-24918/制造理大慘案、所為何事？>

³⁸ “A total of over 10,000 petrol bombs seized from various universities, 4000 from Poly U, 5,890 protesters arrested since June”, *Dimsum Daily Hong Kong*, 29 Nov., 2019, <https://www.dimsumdaily.hk/a-total-of-over-10000-petrol-bombs-seized-from-various-universities-4000-from-poly-u-5890-protesters-arrested-since-june/>

³⁹ Kris Cheng, “Hong Kong police accused of driving vehicles into protesters during clearance operation”, *Hong Kong Free Press*, 19 Nov., 2019, <https://www.hongkongfp.com/2019/11/19/hong-kong-police-accused-driving-vehicles-protesters-clearance-operation/>.

⁴⁰ Kanis Leung, “Arrest and detention of children over Hong Kong’s anti-government protests raise questions on police treatment and legal process”, *South China Morning Post*, 20 Oct., 2019, <https://www.scmp.com/news/hong-kong/politics/article/3033706/arrest-and-detention-children-over-hong-kongs-anti>.

⁴¹ Amnesty International, “Hong Kong: Arbitrary arrests, brutal beatings and torture in police detention revealed”, 19 Sept., 2019, <https://www.amnesty.org/en/latest/news/2019/09/hong-kong-arbitrary-arrests-brutal-beatings-and-torture-in-police-detention-revealed/>. Chris Lau, “Hong Kong student who accused police of sexual violence against protesters has taken legal advice and plans further action”, *South China Morning Post*, 11 Oct., 2019, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3032610/hong-kong-student-who-accused-police-sexual-violence>.

⁴² Civil Rights Observer, “Submission to the United Kingdom All-Party Parliamentary Group on Hong Kong for its inquiry into violations of human rights and humanitarian principles by the Hong Kong Police Force,” April 2020.

⁴³ Hong Kong Connection, “721 Yuen Long Nightmare”, Radio Television Hong Kong, 4 Oct. 2019, <https://www.youtube.com/watch?v=zpkFRsSo30o>; Barbara Marcolini, Haley Willis, K.K. Rebecca Lai, Caroline Kim, Drew Jordan and Tiffany May, “‘Please Stop Beating Us’: Where Were Hong Kong’s Police?“, *New York Times*, 29 July 2019, <https://www.nytimes.com/video/world/asia/10000006624535/hong-kong-protest-police-triad-investigation.html>.

⁴⁴ Lok-kei Sum, “Hong Kong police chief tangles with opposition councilors for second time in week over force’s handling of protests”, *South China Morning Post*, 22 Jan. 2020, <https://www.scmp.com/news/hong-kong/politics/article/3047251/hong-kong-police-chief-tangles-opposition-councillors>.

Matthew Cheung, apologized that “the police’s handling fell short of the citizens’ expectations”, he was rebuked publicly by the Police Inspectors’ Association.⁴⁵ A week later, the police themselves indiscriminately charged with batons and tear gas at crowds in the same station,⁴⁶ leading to headlines likening the officers to thugs.⁴⁷ On 31 August, a larger scale of indiscriminate attacks by uniformed police on passengers took place in the downtown Prince Edward station.⁴⁸

Equally worrisome is the biased enforcement of the law. By April 2020, the police have arrested more than 7600 and charged over 2000 for unlawful assemblies, rioting, possession of weapons, and arson, which could carry a maximum sentence of 10 years to life imprisonment. Few (if any) abusive officers and gangsters have faced justice.⁴⁹

Beyond hiding behind Hong Kong’s own police, Lam on 4 October invoked emergency powers to prohibit protesters from wearing masks, paint or any other face covering. A local court ruled on 18 November that the mask ban was unconstitutional.⁵⁰ The NPC Standing Committee quickly declared that “no other authority [except itself] has the right to make judgements and decisions” regarding the consistency of Hong Kong’s laws with the Basic Law.⁵¹ On 4 April, 2020, the Court of Appeal duly overturned the lower court’s ruling.⁵²

On 1 November, 2019, the Fourth Plenum of the 19th Central Committee of the Communist Party formally announced that it would “exercise governance” in Hong Kong.⁵³ It also

⁴⁵ Christy Leung and Victor Ting, “Police anger after Hong Kong No 2 Matthew Cheung says sorry for Yuen Long attack response”, *South China Morning Post*, 26 July 2019, <https://www.scmp.com/news/hong-kong/politics/article/3020251/hong-kong-no-2-matthew-cheung-says-sorry-police-response>.

⁴⁶ Steve George, Ben Westcott, Joshua Berlinger, Jessie Yeung, Jo Shelley, Kristie Lu Stout and Eric Cheung, “Riot police clash with protesters as Hong Kong march descends into violence”, CNN, 28 July 2019, <https://edition.cnn.com/asia/live-news/hong-kong-yuen-long-protests-intl-hnk/index.html>.

⁴⁷ Lily Kuo, “‘No difference’: Hong Kong police likened to thugs after Yuen Long violence”, *The Guardian*, 28 July 2019, <https://www.theguardian.com/world/2019/jul/28/hong-kong-police-likened-to-thugs-after-yuen-long-violence>.

⁴⁸ Lily Kuo and Erin Hale, “Hong Kong protests: riot police storm metro station with batons”, *The Guardian*, 1 September 2019, <https://www.theguardian.com/world/2019/aug/31/hong-kong-braced-for-weekend-of-protests-despite-cancellation-of-march>.

⁴⁹ “Over 7000 have been arrested in Hong Kong’s Anti-Extradition Movement,” Radio Free International, 3 April 2020, <http://www.rfi.fr/cn/社会/20200403-香港反修例运动至今7千逾人被捕-78人须承担法律后果>

⁵⁰ Michael C. Davis, “In Hong Kong, Beijing’s tough talk could spark a constitutional crisis”, *Monkey Cage*, *Washington Post*, 21 November, 2019, <https://www.washingtonpost.com/politics/2019/11/21/hong-kong-beijings-tough-talk-could-spark-constitutional-crisis/>.

⁵¹ Tony Cheung, William Zheng and Gary Cheung, “‘No other authority has right to make judgments’: China slams Hong Kong court’s ruling on anti-mask law as unconstitutional,” *South China Morning Post*, 19 Nov. 2019, <https://www.scmp.com/news/hong-kong/politics/article/3038325/hong-kong-judges-slammed-chinas-top-legislative-body>.

⁵² Chris Lau, “Hong Kong mask ban legal when aimed at unauthorised protests, Court of Appeal rules in partially overturning lower court verdict,” *South China Morning Post*, 9 April 2020, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3079197/hong-kong-mask-ban-legal-when-aimed-unauthorised>

⁵³ “Press conference of the Fourth Plenum of the 19th Central Committee of the Chinese Communist Party”, Xinhua, 1 Nov., 2019, <http://www.xinhuanet.com/talking/20191101z/>.

called for national security legislation, patriotic education and other measures to end the turmoil. The decision may not introduce a new policy, but it formalizes the ultimate absorption of the “two systems” by the “one country.”

In early 2020, Beijing appointed senior-ranked leaders, Xia Baolong and Luo Huining, to head HKMAO in Beijing and Liaison Office in Hong Kong, respectively. Xia, who served as the vice-chairman of China’s top political advisory body, the Chinese People’s Political Consultative Conference, is a close ally of Xi Jinping and has a track record of demolishing crosses and churches in Zhejiang. Luo Huining has reiterated the Plenum’s decision to introduce national security law.

On 13 April, 2020, HKMAO and the Liaison Office issued statements condemning pro-democracy legislator Dennis Kwok for stalling the election of the chairman of the House Committee, thereby blocking the passage of various laws including the national anthem bill.⁵⁴ When criticized that such condemnation amounted to interference barred by Article 22 of the Basic Law, HKMAO and the Liaison Office asserted that they were not bound by the article and that they had the responsibility and right to “supervise” how the “one country, two systems” policy governing Hong Kong was being implemented.⁵⁵

No less alarmingly, the Hong Kong police arrested 15 pro-democracy activists including the “father of Hong Kong’s democracy movement,” Martin Lee, on April 18.⁵⁶ Prince Charles wrote about the handover in 1997: “Thus we left Hong Kong to her fate and the hope that Martin Lee, the leader of the Democrats, would not be arrested...”⁵⁷ Twenty-three years on, Lee and others are arrested for “organizing and participating in unlawful assemblies” even though the Basic Law guarantees the freedom of assembly and of free speech. Lee’s arrest should send the most unmistakable signal that Beijing is reaching the end goal of imposing its version of “one country, two systems” – capitalism without freedom – on Hong Kong.

London’s obligations for Hong Kong

The United Kingdom is a signatory to the 1984 Sino-British Joint Declaration and has legal obligations to ensure that China abides by the treaty. Yet, Beijing has repeatedly declared with impunity that the treaty “is now void and only covered the period from the signing in 1984 until the handover in 1997”.⁵⁸ London should insist that Beijing honors its treaty obligation and that

⁵⁴ Ng Kang-chung, “Hong Kong and Macau Affairs Office and Liaison Office slam Hong Kong’s opposition lawmakers for not taking their oath seriously,” *South China Morning Post*, 13 April, 2020 <https://www.scmp.com/news/hong-kong/politics/article/3079681/beijing-agencies-slam-opposition-lawmakers-filibustering>

⁵⁵ Michael C. Davis, “Controversy over role of Beijing’s offices in Hong Kong shows weight of ‘one country’ threatens the scaffolding of ‘two systems’,” *South China Morning Post*, 24 April 2002, <https://www.scmp.com/comment/opinion/article/3081090/controversy-over-role-beijings-offices-hong-kong-shows-weight-one>

⁵⁶ Jerome Cohen, “How to read the 4/18 mass arrests in Hong Kong,” April 19, 2020, <http://www.jeromecohen.net/jerrys-blog/2020/4/19/how-to-read-the-418-mass-arrests-in-hong-kong>

⁵⁷ “Charles’ diary lays thoughts bare.” BBC, 22 February 2006, http://news.bbc.co.uk/2/hi/uk_news/4740684.stm

⁵⁸ Danny Lee and Gary Cheung, “Beijing tells Britain it has no ‘moral responsibility’ for Hong Kong Remarks come after ambassador told UK lawmakers JD is ‘void’,” *South China Morning Post*, 3 Dec., 2014,

its abrogation of the Hong Kong treaty leaves it a non-credible signatory to other international agreements.

Recently declassified documents from Britain's National Archives in December show that London was aware of the discrepancies between the Joint Declaration and the Basic Law. For instance, the Joint Declaration promises "a high degree of autonomy, except in foreign and defense affairs." This qualifier is omitted in Article 2 of the Basic Law, which stipulates that "The National People's Congress authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of this Law."⁵⁹ Moreover, while this clause mentions final jurisdiction, Article 158 gives the NPC Standing Committee final interpretation power over the Basic Law — a power that it has used five times since the handover. British officials also pointed out that "paragraph 1 of Article 22 of the draft does not prohibit the CPG (Central People's Government) itself or organs other than departments under the CPG from interfering in Hong Kong's internal affairs."⁶⁰ Unfortunately, London did not make such objections public, thereby effectively acquiesced to Beijing's encroachment on Hong Kong from Day One.

Beijing has progressively eroded Hong Kong's freedoms since 1997, especially after the 2014 Umbrella Movement. London not only failed to challenge Beijing, but in fact dreamed of becoming Beijing's best friend in the Western world and was the first Western democracy to sign on to the Beijing-led Asian Infrastructure and Investment Bank in 2015.⁶¹

The time for a "China reckoning" is long overdue in London. British leaders must make it be known to their Chinese counterparts that they cannot stifle Hong Kong's freedoms and still expect the Western world to keep Hong Kong's special economic status from which they have reaped immense benefits.⁶²

<http://www.scmp.com/news/hong-kong/article/1654603/china-says-british-complaints-over-hong-kong-visit-ban-useless>.

⁵⁹ "UK knew early about holes with political reforms and interpretation in the Basic Law, Raised amendments with Beijing but rejected", *Apple Daily*, 5 Jan., 2020, <https://hk.news.appledaily.com/local/20200105/G7EYD5UKPU7XUBQ3CK4YFK5GBI/>.

⁶⁰ Gary Cheung and Natalie Wong, "Hong Kong in midst of tussle over 'tricky' relationship between liaison office, Basic Law, and daily running of the city," *South China Morning Post*, 21 April, 2020, <https://www.scmp.com/news/hong-kong/politics/article/3080777/suddenly-question-hong-kong-government-finds-defining>

⁶¹James Forsyth, "Britain's bid to become China's best friend in the West is over," *The Spectator*, 24 April 2020, <https://www.spectator.co.uk/article/britain-s-bid-to-become-china-s-best-friend-in-the-west-is-over>

⁶² For a broader analysis of the erosion, see Victoria Tin-bor Hui, "Today's Macau, Tomorrow's Hong Kong"? What Future for "One Country, Two Systems"?, for ISPI Report "Between Politics and Finance: Is a Full Revolution in Place in Hong Kong?", Italian Institute for International Politics, May 2020.