

HONG KONG'S FUTURE ON EDGE: Countering China's National Security Law

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Riot police chase pro-democracy protesters during a demonstration opposing postponed elections, in Hong Kong, China September 6, 2020. REUTERS/Tyrone Siu

I. EXECUTIVE SUMMARY

Over the past seventy-five years, the United States and its allies have constructed and defended a rules-based international system that has provided unprecedented levels of peace, prosperity, and freedom. In recent years, the system has come under increasing strain, as a new era of great power competition has emerged. Despite hopes that China would become a “responsible stakeholder” in a rules-based system, Beijing has grown increasingly assertive, especially under President Xi Jinping. Beijing’s more confrontational path poses a significant challenge to a rules-based system. The challenge presented by China is particularly acute in the context of Hong Kong, where the Chinese Communist Party (CCP) has brazenly violated an international treaty and curtailed democratic institutions and human rights.

As the world enters an era of strategic competition with China, Beijing’s actions in Hong Kong should be a priority for policy-makers in the United States and allied countries. This report addresses the importance of Hong Kong within the context of

China’s broader challenge to the rules-based system and offers recommendations for how the United States and its allies can prevent a further erosion of democracy in Hong Kong and, over time, seek to restore it. It suggests that the United States and its allies still have available a range of pragmatic policy tools that can be used to exert pressure and impose meaningful costs on Beijing. These should be implemented as part of a broader, comprehensive strategy to prevent China from undermining the rules-based system in the security, economic, and governance domains.

On June 30, 2020, the CCP imposed a sweeping new National Security Law on Hong Kong, effectively giving Beijing direct control over the autonomous territory. Since then, China has acted to erode Hong Kong’s liberal traditions, in violation of Beijing’s treaty commitments under the Sino-British Joint Declaration. The National Security Law has for all practical purposes outlawed democratic activism, organizing, and speech. Over the past year, Beijing has cracked down on Hong Kong’s democratic institutions and thrown the pro-democracy movement into disarray.

Beijing's crackdown in Hong Kong is aimed at achieving several objectives. First, China's leaders seek to maintain the legitimacy of the CCP in the face of a pro-democracy movement that it fears could spread to the mainland. Second, they seek to advance the unification of China by harmonizing the cultural, social, and economic aspects of life across the country, including Hong Kong. Third, the CCP aims to achieve a comprehensive modernization of China, while retaining the Party's leadership, including by reaping economic benefits from the Greater Bay Area Integration Plan. Finally, China's crackdown is aimed at stemming the advance of a liberal, democratic world order by pushing back on democratic norms that it views as antithetical to the Party and a danger to its efforts to modernize China on its own terms.

The United States and its democratic allies have wide-ranging interests in preserving Hong Kong's democratic institutions. The first is to advance a rules-based order that preserves democratic norms and protects human rights. Relatedly, the United States has a longstanding interest in supporting international law, which has been undermined by China's violation of the Sino-British Joint Declaration. In addition, the United States and its allies have significant economic interests in Hong Kong, especially given the large number of Western firms and employees in the city. Finally, the fate of Hong Kong is linked to that of Taiwan, which the United States and its allies have had a clear long standing interest in defending. More generally, the United States and its allies have a stake in countering China's actions in Hong Kong as part of a broader strategy to defend the rules-based system against Beijing's efforts to undermine it.

Since the imposition of the National Security Law, the United States and its allies have responded through a variety of policy actions including statements of condemnation, sanctions, and the suspension of extradition treaties with Hong Kong. But the impacts of these measures have been limited. The United States and its allies must take further actions to push back on Beijing's crackdown in Hong Kong. The ultimate objective of these actions is to achieve a state whereby Beijing, consistent with its treaty commitments, restores a greater degree of autonomy and democracy in Hong Kong. By holding Beijing accountable and imposing costs for its actions, the United States and its allies should seek to deter further transgressions within Hong Kong and, with sustained, coordinated action, aim to roll back the National Security Law over time.

The report describes several Tier One actions that can be taken by the United States and its allies to amplify the current policy framework with regard to Hong Kong. This includes actions to (i) expose and condemn illicit Chinese behavior in Hong Kong; (ii) counter Beijing's narrative surrounding Hong Kong; (iii) expand democracy assistance for civil society groups; (iv) use sanctions to punish the CCP and its proxies for treaty violations; and (v) provide safe haven for Hongkongers.

In addition, the report suggests consideration of Tier Two actions that would entail elevating Hong Kong as a higher priority in relations between the China and the West. This could include conditioning the resumption of normal relations with China on the restoration of Hong Kong's democracy, similar to the way in which improved relations with Russia have been conditioned on a withdrawal from Crimea. The United States, along with allies and partners could also seek to link, in certain respects, China's unfettered access to Western markets and with its adherence to its treaty commitments on human rights and democracy in Hong Kong. While these actions could result in escalatory counter-measures by Beijing, they merit consideration as part of a broader strategy to address China's challenge to the rules-based order.



Pro-democracy activist Joshua Wong is seen in Lai Chi Kok Reception Centre after jailed for unauthorised assembly near the police headquarters during last year's anti-government protests in Hong Kong, China December 3, 2020. REUTERS/Tyrone Siu

II. STRATEGIC CONTEXT

Beijing's Crackdown in Hong Kong

In February 2019, the Hong Kong government introduced a bill in the city's legislature that would have permitted the extradition to mainland China of Hongkongers accused of violating Chinese law. Many Hongkongers feared Beijing's encroachment on the city's autonomy. Opposition in Hong Kong steadily increased, and by June 2019, over a million people took to the streets to demand the bill's withdrawal and the resignation of Hong Kong's Chief Executive Carrie Lam.¹ While Lam eventually agreed to withdraw the bill, activists continued to seek other democratic protections, including amnesty for those arrested, an investigation into the police use of force, and universal suffrage in Hong Kong. Protests and civil disobedience continued through January 2020.

The coronavirus outbreak largely brought an end to protests. Under the pretext of preventing further street unrest once the pandemic subsided, Beijing passed the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (SAR), commonly known as the National Security Law, in June 2020. The measure increased the central government's control over Hong Kong citizens by providing Chinese officials with the authority to monitor, try, and punish "secession, subversion, terrorism, and colluding with foreign governments."² In addition, the legislation expands the abilities of Chinese police in Hong Kong—including the ability to search without warrants—and gives China the power to monitor and censor the internet in Hong Kong, and arrest protestors and individuals critical of the government. The law effectively discards the common law protections available to Hong Kong residents by creating a parallel judicial system focused on national security and empowers Hong Kong courts with the legal authority to deliver detainees into the hands of Beijing's security services. Most importantly, the far-reaching definition of national security—roughly parallel to China's legal framework for state security

1 Chun Han Wong, "Beijing Digs in on Hong Kong Extradition Bill," *The Wall Street Journal*, June 10, 2019. <https://www.wsj.com/articles/beijing-digs-in-on-hong-kong-extradition-bill-11560167126>

2 "Hong Kong security law: What is it and is it worrying," *BBC News*, June 30, 2020. <https://www.bbc.com/news/world-asia-china-52765838>

Key Actions in Hong Kong

1997 July 1	Hong Kong is handed back to the Chinese authorities after more than 150 years of British control, under the terms of the Sino-British Joint Declaration.
2019 June-July	Hong Kong sees anti-government and pro-democracy protests, involving violent clashes with police, in response to a proposal to allow extradition to mainland China.
2020 June 30	Standing Committee of the National People's Congress passes National Security Law (NSL) in Hong Kong that provides a legal framework to assert direct control over Hong Kong under the guise of contending with "national security threats."
2020 July 30	Election officials invalidate the nomination of 12 individuals for the Legislative Council election for opposing the NSL.
2020 July 31	Legislative Council election postponed by one year.
2020 August 23	Chinese coast guard arrests 12 people in the South China Sea who were en route to Taiwan to seek asylum.
2020 December 2	West Kowloon Magistrates' Court sentences Joshua Wong, Agnes Chow, and Ivan Lam in connection to the June 21, 2019, protest outside Hong Kong police headquarters.
2020 December 16	Hong Kong government requires existing civil servants to swear a new pledge of allegiance or risk losing their jobs.
2021 February 28	47 pro-democracy activists are charged and detained for alleged subversion under the NSL for organizing and participating in a primary election exercise in July 2020 to select candidates for the Legislative Council election in September 2020.
2021 April 21	Hong Kong police chief calls for a new law to ban fake news.
2021 May 10	Leisure and Cultural Services Department orders public libraries to remove nine books written by six pro-democracy figures and critics of Beijing to avoid breaking the NSL.
2021 May 20	Carrie Lam signs the Public Offices Amendment Bill 2021 officially requiring all civil servants to pledge allegiance to the Chinese and HK governments.
2021 June 17	Police raid Apple Daily, seizing journalistic materials, freezing HK \$18 million.

—made it illegal to criticize or oppose the Hong Kong government's dismantling of democratic institutions that soon followed.²

Under the protection of Hong Kong's Basic Law, freedom of assembly, political opposition, and expression of alternative political viewpoints were very much part of the political fabric of Hong Kong. In 2012, activists like Joshua Wong, were successful in pushing back against curriculum and textbook changes meant to encourage Chinese patriotic education. The Umbrella Movement in 2014 directly led to success for pro-democracy candidates in the 2016 Legislative Council elections, and the 2019 anti-extradition law protests generated a sweep for pro-democracy candidates in the

District Council elections that November.³ The National Security Law has for all practical purposes outlawed democratic activism and free speech.

In recent months, Beijing has taken additional measures to assert control over Hong Kong. The Chinese government enacted a law barring anyone whom Beijing deems "unpatriotic" from standing for election to Hong Kong's legislature. The law significantly reduces the number of representatives who can be directly elected by the people—a direct blow to Hong Kong's democracy. Hong Kong authorities have also arrested a number of pro-democracy activists under the National Security Law. Prominent

3 Shao-Kang Chen, "The Implications of the Sixth Hong Kong Legislative Election for Relations with Beijing," *Carnegie Endowment for International Peace*, October 17, 2016. <https://carnegieendowment.org/2016/10/17/implications-of-sixth-hong-kong-legislative-election-for-relations-with-beijing-pub-64872>; Keith Bradsher, Austin Ramzy and Tiffany May, "Hong Kong Election Results Give Democracy Backers Big Win," *The New York Times*, November 24, 2019. <https://www.nytimes.com/2019/11/24/world/asia/hong-kong-election-results.html>



Hong Kong Chief Executive Carrie Lam shakes hands with Chinese President Xi Jinping after she swore an oath of office on the 20th anniversary of the city's handover from British to Chinese rule, in Hong Kong, China, July 1, 2017. REUTERS/Bobby Yip

detainees include Marin Lee, the “father of Hong Kong’s democracy,” and the media tycoon Jimmy Lai. Mr. Lai’s Apple Daily newspaper, once a beacon of free speech in Hong Kong has seen its offices raided, executives arrested, and was finally forced to shut down its operations, striking a serious blow to press freedom.⁴ According to some reports, nearly every prominent Hong Kong activist is now either in jail or exile.⁵

Chinese Communist Party Motivations

Although Beijing’s policies and tactics have changed over the years, its objectives have remained the same. The crackdown in Hong Kong is related to four key objectives.

The first objective is to **maintain the legitimacy of the Chinese Communist Party**. The CCP seeks to bolster its domestic legitimacy. Beijing is willing to drastically assert control in Hong Kong because it perceives the unrest as a potential “color revolution” that could pose an existential threat to CCP rule. In Beijing’s view, Hong Kong, if left unchecked, could become politically destabilizing. The CCP is acutely sensitive to domestic discontent. Chinese propagandists have taken to framing the crackdown on Hong Kong in nationalistic terms by portraying protests in Hong Kong as a covert attempt by Western powers to infringe on Chinese sovereignty. Limited snapshots of Chinese public opinion, gleaned through short-lived apps such as Clubhouse, suggest that Chinese citizens do not all see eye-to-eye on the issue.⁶ To rectify this, the CCP is prepared to go to great lengths to prevent protest in Hong Kong from spilling into the rest of China and potentially destabilizing the country as a whole.

Cracking down on Hong Kong also allows Beijing to demonstrate to domestic and foreign audiences that China has the strength to dictate terms in Hong Kong and can no longer be pushed around by Western powers. One of China’s core nationalist narratives revolves around redeeming the nation after the Century of Humiliation, during which time, the ailing Qing empire was too weak to defend against Western incursion, and large swathes of Chinese territory, including Hong Kong, were claimed by foreign powers.⁷ Today, Beijing seeks to show that it can act with impunity in Hong Kong, even in the face of Western opposition—a clear signal to domestic audiences that China has overcome the humiliation of its recent past.

The second objective is the **unification of China**—at least the China imagined by the CCP. Unification goes beyond direct political control over China and includes harmonization of cultural, social, and economic aspects of life across the whole country. Beijing’s policies for unifying Chinese identity have been most the visible on China’s periphery, where non-Chinese ethnic groups predominate, or, like Hong Kong, in territories that have a distinct

⁴ Helen Davidson, “Hong Kong’s Apple Daily, Symbol of Pro-democracy movement, to close,” *The Guardian*, June, 2021.

⁵ Shibani Mahtani, Timothy McLaughlin and Theodora Yu, “With new mass detentions, every prominent Hong Kong activist is either in jail or exile” *Washington Post*, Feb. 28, 2021. https://www.washingtonpost.com/world/asia_pacific/hong-kong-arrests-national-security-law/2021/02/28/7e6cd252-77ea-11eb-9489-8f7dacad51e75_story.html

⁶ “Clubhouse: The controversial chats that angered China’s censors,” *BBC News*, February 10, 2021. <https://www.bbc.com/news/world-asia-china-55984854>

⁷ Jacob Finke, “Collective Memory, Chinese National Narrative, and the Century of Humiliation,” *Washington University Office of Undergraduate Research Digest*, vol.13, May 1, 2018. https://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1056&context=wuurd_vol13

Chinese culture which developed independently from the rest of the country after 1949.

Beijing's intent has long been to integrate Hong Kong with the mainland. Under the Sino-British Joint Declaration treaty, which formalized Hong Kong's handover in 1997, Hong Kong was to be fully integrated with mainland China by 2047. In the intervening years, Hong Kong was to be granted autonomy under "One Country, Two Systems." This approach was originally intended to convince the British to relinquish Hong Kong in 1997, by guaranteeing the democratic traditions and civil liberties that Hong Kong had come to enjoy. It is doubtful, however, that Beijing ever intended to keep that promise. The CCP moved quickly to expand its activities in Hong Kong throughout the 1990s and 2000s: co-opting the elite, organizing pro-CCP civil society groups, and taking control of key institutions like the police.⁸

In subsequent years, Beijing embraced the notion of "One Country, Two Systems" as a model to promote Taiwanese reunification with the mainland. However, this model has become largely untenable. While Beijing still gives lip service to the idea, the system has not resonated with the people of Taiwan and Beijing no longer feels constrained to abide by this model as a pathway for Taiwanese reunification.⁹

A third objective is tied to Beijing's longstanding ambition to build China into a modern country with global influence, an objective that has remained consistent since the days of Mao Zedong. The CCP aims to achieve a **comprehensive modernization of China across the economic, military, social, environmental, and cultural spheres of governance** while retaining the Party's leadership. Over the long term, Beijing hopes to reap economic benefits through the Greater Bay Area Integration Plan, which would see Hong Kong, Macau, and Shenzhen merged into one megalopolis.¹⁰ Even as a diminished financial center, Hong Kong would retain top-tier human capital, some of whom would stay and contribute to an integrated mainland. While not the primary consideration behind a crackdown, the death of "One Country, Two Systems," enables the Greater Bay Integration Plan to move forward largely unopposed.

Finally, China's crackdown is aimed at stemming the advance of a liberal, democratic world order. China seeks to **become a global power that defines the way in which countries interact and the norms of global governance**. In the CCP's view, many existing

international institutions have a liberal bias, at least rhetorically, toward political and economic transparency and the protection of human rights.¹¹ The CCP views these institutional norms as antithetical to the Party and a danger to its efforts to modernize China on its own terms.

Hong Kong is at the intersection of each of these objectives, China's President Xi Jinping also stands to benefit personally from the Hong Kong crackdown. Re-integrating Hong Kong with the mainland could help cement Xi's legacy alongside Mao Zedong and Deng Xiaoping in the pantheon of great CCP leaders. Xi could also be hoping to establish himself as one of the great leaders across the whole of Chinese history, which affords particular reverence to emperors who unified all of China under a single government.¹²

Hong Kong's Strategic Value for China

To identify policy actions to counter China's crackdown in Hong Kong, it is useful to understand the strategic value that Hong Kong provides to China. For many years Hong Kong was an indispensable part of the Chinese economy as the primary gateway for Western firms to invest their capital in the Chinese market. In recent years, however, its singular importance for the Chinese economy has been greatly diminished with the rise of cities like Shanghai and Shenzhen. Whereas in 1993, Hong Kong was 25% of China's total GDP, it is now only 2-3%.¹³ The Hong Kong dollar's peg to the US dollar does still afford China easy access to US currency but is by no means China's only ability to access American currency.

Nevertheless, Hong Kong remains a significant financial center, processing nearly two thirds of foreign direct investment into China.¹⁴ Hong Kong's stock exchange is among the world's leaders for IPO's, especially for Chinese companies, which Beijing would be loath to outsource entirely to foreign financial centers. Hong Kong also serves as a hub for Western multinational companies operating in China and the Asia-Pacific, which could be jeopardized by Beijing's actions. It is still too early to know if Hong Kong's role as an economic and financial powerhouse will be replaced by the likes of Shenzhen and Shanghai. Hong Kong's primacy could be imperiled if foreign investors lose confidence in

8 Didi Kirsten Tatlow, "How Hong Kong was lost," *Sinopsis*, December 8, 2020. <https://sinopsis.cz/en/how-hong-kong-was-lost>

9 Yimou Lee, "Taiwan leader rejects China's 'one country, two systems' offer," *Reuters*, October 9, 2019. <https://www.reuters.com/article/us-taiwan-anniversary-president/taiwan-leader-rejects-chinas-one-country-two-systems-offer-idUSKBN1WP0A4>

10 Dorcas Wong, "China's Greater Bay Area in 2020: Opening up the Financial Industry, Promoting Integration," *China Briefing*, May 22, 2020. <https://www.china-briefing.com/news/chinas-greater-bay-area-2020-opening-financial-industry-promoting-integration/#:~:text=The%20Greater%20Bay%20Area%20is,Zhongshan%2C%20Foshan%2C%20and%20Zhaoqing>

11 Shaun Breslin, "China and the Global Order: Signalling Threat or Friendship," *International Affairs (Royal Institute of International Affairs 1944-)*, vol. 89, no. 3, 2013, pp. 631. www.jstor.org/stable/23473846.

12 Jin Wang and Keebom Nahm, "From Confucianism to Communism and Back: Understanding the Cultural Roots of Chinese Politics," *Journal of Asian Sociology*, vol. 48, no. 1, 2019, pp. 91-114. JSTOR, www.jstor.org/stable/26658346. Accessed 16 June 2021.

13 Niall McCarthy, "How China's Economic Boom Eclipsed Hong Kong," *Forbes*, August 30, 2019. <https://www.forbes.com/sites/niallmccarthy/2019/08/30/how-chinas-economic-boom-eclipsed-hong-kong-infographic/?sh=f39951647499>

14 "Dominant Gateway to China" Hong Kong Monetary Authority. <https://www.hkma.gov.hk/eng/key-functions/international-financial-centre/hong-kong-as-an-international-financial-centre/dominant-gateway-to-china/>

the city, but in recent months international capital has surged into Hong Kong despite the crackdown.¹⁵

Still, Hong Kong's appeal has always been about more than just its financial prowess. The city remained an attractive destination to multinationals for many years because of its cosmopolitan lifestyle, rule of law, and Western influences.¹⁶ Foreign companies no longer have to be based in Hong Kong to easily access Asian markets. If the National Security Law is used against foreign companies, many firms would shift jobs abroad to Singapore or Taiwan, which Beijing presumably hopes to avoid.

Beyond its economic importance, Hong Kong will become increasingly important as a tool of Chinese statecraft. In the global competition between democracy and autocracy, Hong Kong presents China with an opportunity to demonstrate the superiority of its model. Despite its success as a financial hub, Hong Kong faces large income inequalities and a dearth of affordable housing, epitomized by the closet-sized apartments in which many low-wage workers live.¹⁷ Beijing could look to gain soft power around the world if its model of authoritarian capitalism is able to fix the problems that open market democracy could not, while still maintaining economic growth under the National Security Law.

Hong Kong also serves as a gateway for the movement of Chinese people to the rest of the world, without the scrutiny that might come from being a Chinese national. For many years, Beijing has laundered its operatives through Hong Kong, and this process could become ever easier as Beijing asserts greater control over Hong Kong. For years, the CCP's United Front system has used a network of Hong Kong-based, Chinese businessmen to covertly spread Chinese influence abroad, and will look to increase operations under the auspices of Hong Kong citizenship.¹⁸

In the diplomatic realm, China wants to avoid Hong Kong becoming a wedge issue, particularly with governments in Europe. Beijing's crackdown on human rights and democracy in Hong Kong disrupts relations with many European governments that very much value respect for democratic norms. Still, the CCP appears willing to accept near-term diplomatic costs for the sake of achieving other objectives vis-à-vis Hong Kong.

15 "China is not just shackling Hong Kong, it is remaking it," *The Economist*, March 20, 2021.

<https://www.economist.com/briefing/2021/03/20/china-is-not-just-shackling-hong-kong-it-is-remaking-it>

16 "Guide to Hong Kong," *Asia Business Centre*. <https://asiabc.co/guide-to-hk/introduction-of-hong-kong-for-doing-business/>

17 Pak Yiu and Stefanie McIntyre, "Hong Kong wealth gap at its widest in decades as handover anniversary nears," *Reuters*, June 27, 2017.

<https://www.reuters.com/article/us-hongkong-anniversarywealth-gap/hong-kong-wealth-gap-at-its-widest-in-decades-as-handover-anniversary-nears-idUSKBN191IE2>

18 Matt Schrader, "Friends and Enemies: A Framework for Understanding Chinese Political Interference in Democratic Countries" *Alliance for Securing Democracy, German Marshall Fund*, April 22, 2020.

<https://securingdemocracy.gmfus.org/wp-content/uploads/2020/04/Friends-and-Enemies-A-Framework-for-Understanding-Chinese-Political-Interference-in-Democratic-Countries.pdf>



U.S. President Joe Biden, Britain's Prime Minister Boris Johnson, Canada's Prime Minister Justin Trudeau, France's President Emmanuel Macron, German Chancellor Angela Merkel, Italy's Prime Minister Mario Draghi, Japan's Prime Minister Yoshihide Suga, European Commission President Ursula von der Leyen and European Council President Charles Michel attend a session during the G7 summit in Carbis Bay, Cornwall, Britain, June 11, 2021. REUTERS/Kevin Lamarque/Pool

III. THE US AND ALLIED RESPONSE

US and Allied Interests in Hong Kong's Democracy

The United States and its democratic allies and partners have several interests in preserving Hong Kong's democratic institutions. The first is to **advance a rules-based order that preserves democratic norms**. China's crackdown on Hong Kong undermines democratic values as well as the rules-based international order. In an emerging era of great power competition, the struggle between democracy and autocracy will play an increasingly important role.¹⁹ As the Biden administration looks to champion democracy around the world, it is essential that the United States and its democratic allies prioritize the health of democracies, especially where China is actively seeking to assert its own counterinfluence.

Second, the United States has a longstanding interest in **supporting international law**. The Chinese crackdown has violated the Sino-British Joint Declaration which established Hong Kong's autonomy as part of the terms for the British return of Hong Kong to Chinese sovereignty. China's violation of the Joint Declaration signals a willingness to break treaty obligations under international law. China's abrogation of its treaty commitments should not be taken lightly and signals that China poses a serious threat to the principles undergirding the international system.

Third, the United States and its allies and partners have **significant economic interests in Hong Kong**, especially given the large number of Western firms and employees in the city. Article 31 of the National Security Law allows Hong Kong authorities to target multinational corporations, and foreign technology companies may be compelled to share sensitive data to continue operations in Hong

¹⁹ Matthew Kroenig, "The Power Delusion," *Foreign Policy*, November 11, 2020. <https://foreignpolicy.com/2020/11/11/china-united-states-democracy-ideology-competition-rivalry-great-powers-power-delusion/>

Kong.²⁰ The safety and security of Western nationals, firms, and intellectual property should all be taken into account when assessing the impact of China's crackdown.

Fourth, the fate of Hong Kong is **linked to that of Taiwan**, which the United States and its allies have had a clear long-standing interest in defending. China is more likely to feel emboldened to move on Taiwan if it does not perceive strong pushback for its crackdown in Hong Kong. So far, the United States and its allies have failed to deter Beijing's actions in Hong Kong. Without clear consequences, Beijing may be tempted at some point to engage in more provocative actions, including potential military maneuvers against Taiwan.

Finally, the United States and its allies and partners have an interest in countering China's actions in Hong Kong as part of a **broader strategy to defend the rules-based system**. To succeed in this longer-term era of strategic competition, China must be convinced that its efforts to challenge the rules-based system are too difficult and costly, and that its interests are better served by pursuing a more cooperative approach with the West.

Actions Taken to Date

Since the imposition of the National Security Law in 2020, countries throughout the free world have responded through a variety of policy avenues. Following the passage of the law, the United States, Australia, and several European countries immediately suspended extradition treaties with Hong Kong.

The United States imposed sanctions on several officials in Hong Kong in August 2020, including its top leader, Carrie Lam; the security and justice secretaries; and the current and former police chiefs. Chinese officials with direct roles in Hong Kong affairs have also been subject to sanctions, including Luo Huining, the head of the Central Liaison Office, the Chinese Communist Party's official arm in the city. Later that year, the State Department imposed travel bans and other sanctions on 14 high-level Chinese officials, including vice-chairs of the Standing Committee of China's National People's Congress, the top legislative body in Beijing.²¹

The United States, along with allies such as Canada, the EU, and the UK have placed export controls on military equipment and sensitive technologies going to Hong Kong. A few hours before the National Security Law was passed, the United States officially recognized that the city was no longer autonomous from China and began suspending export license exceptions for sensitive technology and ending the export of defense equipment to Hong Kong. The American recognition and subsequent suspension were followed by the UK thereafter. The EU also expressed great concern, and, at the end of July, announced that they would also limit the export of sensitive equipment that could be used for surveillance in Hong Kong, as part of a joint response on both the national and the EU level.²²

Just one day after the adoption of the National Security Law, several governments began to offer Hong Kong residents the opportunity to resettle abroad. Among them, Australia, Taiwan, the US, and the UK proposed special measures that would allow Hongkongers to move as refugees. Both Australia and the UK proposed a legal waiver to allow up to 3 million residents to enter, and eventually apply for full citizenship.

Efforts to ensure a special status for political refugees from Hong Kong in the United States culminated into the first version of the Hong Kong Safe Harbor Act, which was introduced to the floor of Congress in June 2020 and was subsequently reintroduced a year later. While the bill is unlikely to pass, an amendment holding similar provisions was filed in the U.S. Innovation and Competition Act to ensure Hongkongers who peacefully protested are eligible for Priority 2 Refugee status. Part of a greater legislative package, the amendment and bill passed the Senate floor and will now be debated in the House.²³

The Biden administration has upheld the Trump administration's decision to decertify Hong Kong's autonomy. In a notice sent to Congress in March 2021, Secretary of State Antony Blinken reaffirmed the determination made by his predecessor during the Trump administration that the city of Hong Kong is no longer autonomous from mainland China and should not receive any special treatment by the United States. As a result, the city will not receive U.S. trade and financial advantages. In addition, the Biden administration, along with the rest of the G7 have condemned China for changes to Hong Kong's electoral system that violate the Sino-British Joint Declaration.²⁴

20 Lauren Maranto, "No Easy Way Out for Social Media Companies Under the New Hong Kong National Security Law," *Center for Strategic and International Studies*, September 16, 2020. <https://www.csis.org/blogs/new-perspectives-asia/no-easy-way-out-social-media-companies-under-new-hong-kong-national>

21 Austin Ramzey and Tiffany May, "U.S. Imposes sanctions on Chinese officials over Hong Kong crackdown" *The New York Times*, Dec, 8, 2020. <https://www.nytimes.com/2020/12/08/world/asia/hong-kong-china-us-sanctions.html>

22 Catherine Shu, "US suspends export of sensitive tech to Hong Kong as China passes new national security law" *Tech Crunch*, June 29, 2020. <https://techcrunch.com/2020/06/29/u-s-suspends-export-of-sensitive-tech-to-hong-kong-as-china-passes-new-national-security-law/>

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IV. POLICY RECOMMENDATIONS

Objectives

The United States and its allies must take further action to push back on Beijing's crackdown in Hong Kong. The ultimate objective of these actions is to achieve a situation in which Beijing, consistent with its treaty commitments, restores a greater degree of autonomy and democracy in Hong Kong. By holding Beijing accountable and imposing costs for its actions, the United States and its allies and partners should seek to deter further transgressions within Hong Kong and, with sustained, coordinated action, aim to achieve a roll back of the National Security Law in the long term. Every day that China does not adhere to the Sino-British Joint Declaration is a day in which Beijing should pay a cost, have its freedom of action curtailed, or have its efforts to achieve its global ambitions frustrated.

The increasing assertiveness of the Chinese Communist Party (CCP) poses a significant challenge to the interests and values of likeminded allies and partners and the rules-based system. There are several actions that the United States and its allies should consider with regard to Hong Kong, which should be implemented as part of a broader, comprehensive strategy to prevent China from undermining the rules-based system in the security, economic, and governance domains. As outlined in a recent *Atlantic Council Strategy Paper, An Allied Strategy for China*, this more holistic approach should be based on three key elements: strengthening likeminded allies and partners and the rules-based system for a new era of great-power competition; defending against Chinese behavior that threatens to undermine core principles of the rules-based system; and engaging China from a position of strength to cooperate on shared interests and, ultimately, incorporate China into a revitalized and adapted rules-based system.²⁵

Tier One: Bolster the Existing Policy Framework

Tier One focuses on actions that amplify the current policy framework with regard to Hong Kong. These are actions that have limited or manageable downside risks, and the United States and its allies and partners should seek to employ them in the near term in order to deepen the pressure on China. The United States should take these actions, in collaboration with democratic allies as part of a clear, coordinated response to China's violations in Hong Kong. This will demonstrate to Beijing that the free world is united and



determined to act with one voice to restore Hong Kong's democratic institutions.²⁶

1. Expose and condemn illicit Chinese behavior in Hong Kong.

The United States and the broader international community should name individuals and institutions publicly for their role in undermining Hong Kong's autonomy and their dealings with the CCP's United Front system. Although exposure does not necessarily lead to concrete actions, naming United Front officials would indicate to businesses and financial institutions that they face additional risk when establishing or continuing a business relationship with individuals who have ties to the United Front. As a result, businesses and financial institutions may be deterred from working with United Front operatives altogether.

2. Counter Beijing's narrative surrounding Hong Kong.

In order to continue to keep the CCP's violations at the forefront of the international debate surrounding China, the United States and its allies and partners should address Chinese disinformation efforts concerning Hong Kong, particularly among the Chinese diaspora living in the West that may be more vulnerable to Chinese influence. The United States and its allies and partners should not let China succeed in distorting the narrative around Hong Kong and should make sure the international community stays fully aware of China's repressive efforts to subvert democracy.²⁷

²⁵ Matthew Kroenig and Jeffrey Cimmino, *An Allied Strategy for China*, Atlantic Council, 2019.

²⁶ Matthew Kroenig and Jeffrey Cimmino "Global Strategy 2021: An Allied Strategy for China" Atlantic Council, Dec, 2020. <https://www.atlanticcouncil.org/global-strategy-2021-an-allied-strategy-for-china/> Jeffrey Cimmino, Ash Jain, Matthew Kroenig, "Countering China's challenge to the free world: A report for the Free World Commission" Atlantic Council Dec, 23, 2021. <https://www.atlanticcouncil.org/in-depth-research-reports/issue-brief/countering-chinas-challenge-to-the-free-world-a-report-for-the-free-world-commission/>

²⁷ Anna Downs, and Ash Jain. "Countering China's crackdown on Hong Kong" *Atlantic Council*, Dec, 17, 2020. <https://www.atlanticcouncil.org/in-depth-research-reports/issue-brief/countering-chinas-crackdown-on-hong-kong/>

3. Expand democracy assistance for Hong Kong civil society groups.

Hong Kong activists and ordinary residents who want to discuss a democratic future for the city will need both financial and organizational support to create the public spaces outside the city to carry on the conversation. Without such assistance, it is likely that Beijing itself will fill the gap and try to organize a controlled international Hong Kong civil society to pre-empt any meaningful challenge. The United States and its allies should take actions to support civil society groups inside Hong Kong and efforts to organize in safe spaces outside of Hong Kong, in order to carry on their pro-democracy movement.

4. Use sanctions to punish the CCP and its proxies for treaty violations.

The Biden administration, in collaboration with allies and partners, should levy sanctions against Hong Kong and Chinese officials responsible for implementing the National Security Law. Roughly 57% of Hongkongers support using sanctions against the individuals and organizations that have undermined Hong Kong's autonomy, even at the cost of some economic damage to the city.²⁸ The Hong Kong Autonomy Act (Public Law 116-145) authorizes the administration to sanction an individual "who materially contributes to the failure of the Government of China to meet its obligations under the Joint Declaration or the Basic Law" and apply restrictions on their financial institutions. The city's political and economic elite have for years participated in Beijing's steady subversion of Hong Kong's autonomy. Sanctions could be applied to all National People's Congress delegates from Hong Kong who voted to undermine Hong Kong's autonomy, through their votes in favor of the National Security Law. Hong Kong delegates to the Chinese People's Political Consultative Conference, among other activities, all worked as part of the CCP's United Front system to mobilize political support for Beijing in the city, undermine civic institutions, and promote Hong Kong's political, economic, and cultural assimilation as part of the Greater Bay Area project.²⁹ Special attention should also be paid to sanctioning United Front officials involved with Hong Kong. Many of these individuals have business interests in the West, and would certainly find such sanctions would restrict their ability to operate.

Other organizations culpable in abetting the National Security Law include the Hong Kong Government's Executive Council, pro-Beijing parties such as the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), the Liberal Party, the New People's Party, and civil society organizations such as the Hong Kong Federation of Trade Unions, the

New Territories Association of Societies, the Federation of Hong Kong and Kowloon Labor Unions, and the Business and Professionals Alliance for Hong Kong. Members of all these organizations should be subject to sanctions.

In addition, the Biden administration should impose visa or financial sanctions on judges and prosecutors who enforce the National Security Law. The judges administering the national security law are doing so outside of the city's normal judicial system and are complicit with Beijing's violation of international agreements.³⁰ Sanctioning these individuals may not stop the functioning of national security courts, but it will restrict foreign legal professionals' involvement and dissuade internationally minded Hongkongers from participating.

Another target for visa and financial sanctions are education officials and administrators who push Chinese style patriotic education in Hong Kong. These officials and academic administrations should face international opprobrium for their efforts to mainland-ize Hong Kong. Pushing back against such efforts marked the beginning of the political awakening for the current generation of Hong Kong activists. Hong Kong has long been a battleground over historical memory in China, as a result of the CCP's efforts to whitewash the history of its human rights abuses and significant events like the Tiananmen Massacre in 1989. Liberal democracies should demonstrate to Beijing that it will impose costs on Chinese officials who continue to distort the historical record.

5. Provide safe haven for Hongkongers.

The United States and other free nations should offer safe haven to Hong Kong activists whose lives may be endangered by their continued advocacy for freedom in Hong Kong. This is not only a humanitarian gesture, but can also serve to create safe political spaces from which the Hong Kong democracy movement can continue to organize. The National Security Law has criminalized any meaningful public discussion of the city's future within the territory. If there is a democratic future for Hong Kong, then it will need to be discussed and decided elsewhere. The United States should ease the way for Hong Kong's people, especially those who were politically active to come to the United States. 30% of democracy supporters in Hong Kong would like to leave the city.³¹ Britain has already offered citizenship to Hong Kong passport holders and the Hong Kong Safe Harbor Act, if passed, or a similar administrative action, would offer asylum to many Hongkonger's fleeing China. This would enable the Hong Kong diaspora to speak freely about China's violations and serve as a constant source of embarrassment to Beijing.

28 "Hong Kong Public Opinion Program of Hong Kong Public Opinion Research Institute PopPanel Research Report No. 29" *Hong Kong Public Opinion Research Institute*, July 3, 2020. https://www.pori.hk/wp-content/uploads/2021/03/Panel_report29_eng_2020jul3_PORI.pdf

29 "Roles and functions of Chinese People's Political Consultative Conference," *The National Committee of the Chinese People's Political Consultative Conference*, March 17, 2020. http://en.cppcc.gov.cn/2020-03/17/c_470023.htm

30 "Hong Kong National Security Law: Highlighting Provisions Inconsistent with the Basic Law and International Human Rights Standards" *Congressional Executive Commission on China*, July 1, 2020. <https://www.cecc.gov/publications/commission-analysis/hong-kong-national-security-law-highlighting-provisions>

31 "Hong Kong Public Opinion Program of Hong Kong Public Opinion Research Institute: PopPanel Research Report No. 65" *Hong Kong Public Opinion Research Institute*, March, 2021

Tier Two: Elevate Hong Kong as a top policy priority in relations with China

Tier Two actions are those that would require a significant shift in the way the United States and its allies and partners approach the Hong Kong issue in the context of its broader relationship with China. While these actions may result in escalatory counter-measures by Beijing, they merit consideration as part of a broader strategy to address China's challenge to the rules-based order.

1. Make the restoration of Hong Kong's democracy a defining issue of relations with China.

The United States and its allies and partners could consider elevating China's crackdown in Hong Kong with Russia's annexation of Crimea, which became a defining issue for US and allied relations with Russia. After Russia invaded Crimea and Ukraine, Russia was treated by the West as an international pariah. It was evicted from the G8, castigated repeatedly in international fora, and became the target of a sustained and robust sanctions campaign by the US, EU, UK, and other nations, which has had a significant impact on Russia's economy.³² Russian withdrawal from Crimea became a condition for the resumption of normal relations with the US and the EU.

Similarly, the United States and its allies and partners could seek to place China's assault on democracy in Hong Kong on the same plane as Russia's invasion of Crimea, and advocate for a similar response by the international community. While the United States and its allies and partners have made strong statements about Hong Kong, including through the G7 and other international fora, the issue has not taken on the same political and diplomatic significance as Crimea. This may be in part because Russia's annexation of Crimea is perceived to have violated a core international norm—the denigration of national sovereignty.³³ Still, the belief that Beijing would uphold its

agreements underpinned forty years of US engagement. The violation of so fundamental a treaty as the Sino-British Joint Declaration should have commensurate consequences for how Washington approaches policy toward China.

2. Link Beijing's adherence with its treaty commitments, including on human rights, to broader economic issues.

The United States, along with allies and partners could seek to link China's unfettered access to Western markets with its adherence to treaty commitments on human rights and democracy in Hong Kong. As the United States and its allies and partners enter a phase of strategic competition with China, there is a growing recognition that selective decoupling from the Chinese economy will be necessary, particularly in the areas of sensitive technologies, such as 5G. Moreover, trade restrictions have already been placed on Chinese companies deemed complicit with human rights violations in Xinjiang. Given Beijing's increasingly oppressive human rights policies, additional restrictions on China's economic engagement should be considered.

However re-establishing a linkage between trade and human rights—a core feature of US trade relations with China until the 1990's—would have significant implications for the US economy and those of its allies and partners, given the deeply integrated commercial ties between China and the rest of the world. This approach would likely prompt retaliation from Beijing, and the United States and its allies and partners would have to be willing to bear potentially significant economic costs. For now, the United States and its allies and partners should consider incremental restrictions on trade linked to human rights, with greater attention to steps the United States and its allies and partners can take to mitigate the impacts of such retaliation over the long run.

32 Anders Aslund and Maria Snegovaya "The impact of Western sanctions on Russia and how they can be made even more effective" *Atlantic Council*, May 3, 2021. <https://www.atlanticcouncil.org/in-depth-research-reports/report/the-impact-of-western-sanctions-on-russia/>

33 Ibid.

V. CONCLUSION

Coordinated US and allied action in response to China's crack-down on Hong Kong is critical in the fight for democracy and its preservation worldwide. Failure to impose sustained costs could result in China growing bolder in its efforts to undermine democracy, especially in places such as Taiwan. The policy recommendations in this report outline several options for holding Beijing accountable and thwarting its continued subversion of democracy.

As the world moves into a new era of great power competition, where autocratic actors threaten international norms and rules, actions that the United States and its allies and partners take now will be key in shaping the future of the global order. Rules are meaningless without accountability. Swift action from the United States and its allies and partners regarding Hong Kong are necessary as part of a broader China strategy that will display a clear commitment from the world's democracies to uphold the rules-based order they created and the values upon which it was founded.

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