Holding An Umbrella for Human Rights and Democracy: The United States’ Response to Hong Kong’s Protests

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In 2014, Hong Kongers stood against their own government and police force to call for democracy and universal suffrage.\(^1\) They peacefully protested against the People’s Republic of China’s (PRC) National People’s Congress Standing Committee’s decision to screen candidates for Hong Kong’s Legislative Council and Chief Executive positions. In protests that lasted three months, citizens held umbrellas to defend against police tear gas and pepper spray,\(^2\) labeling themselves “The Umbrella Movement.” As a result, yellow umbrellas have become a symbol of protest and democracy in Hong Kong.\(^3\) Residents of the city have held the ideals of this symbol high against a proposed extradition bill\(^4\) titled the Fugitive
Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019. With the recent eruption of protests for democracy, the United States Congress is considering holding its own umbrella in support of Hong Kong residents and their rights in the form of a bipartisan bill called The Hong Kong Human Rights and Democracy Act of 2019.

Historical Context of Human Rights in Hong Kong

In 1997, during an event known as “The Handover,” the United Kingdom returned Hong Kong to the Chinese central government through the Sino-British Joint Declaration that outlines the legal stipulations of One Country, Two Systems, and the Hong Kong Basic Law. One Country, Two Systems is a PRC constitutional principle which codifies that while Hong Kong is part of China, it will operate under its own economic, administrative, and legal systems separate from Mainland China until 2047. The Hong Kong Basic Law is the autonomous region’s constitution that guarantees fundamental rights to Hong Kong residents such as freedom of speech, freedom of the press, freedom of assembly, and universal suffrage.

Implications of the Extradition Bill

The extradition bill would have allowed the Chinese central government to extradite individuals in Hong Kong to face prosecution in the PRC under Mainland Chinese law, which violates the freedoms laid out in the Basic Law. With the erosion of Hong Kong residents’ freedoms, the Congress of the United States proposed the Hong Kong Human Rights and Democracy Act to “assess whether political developments in Hong Kong justify changing Hong Kong’s unique treatment under US law.”

The US Congressional Executive Commission on China released a statement on May 15, 2019, stating:

“Since the 2014 democracy protests (‘Umbrella Movement’), the Chinese government and Hong Kong authorities have taken active steps to stifle political participation and speech and prosecute pro-democracy advocates, among them student leaders Joshua Wong and Nathan Law and Occupy Central organizers Benny Tai and Chan Kin-man.”

Violation of Human Rights in Hong Kong and Goals of the Current
Protests

As of October 2019, Hong Kong does not have universal suffrage despite various legislative attempts since The Handover and residents calling for fair democratic elections during the Umbrella Movement. During recent protests, Hong Kong police have used excessive force and aggressive tactics against protesters exercising their right to free assembly once again. Instances of these tactics include officers rupturing a young woman’s eye with a bean bag, dressing as protesters to subdue them amidst non-violent demonstrations, and raiding Mass Transit Railway (MTR) Stations to target protesters returning home. A minority of protesters have begun retaliating against the Hong Kong police through brutal means such as throwing petrol bombs and bricks at officers. In spite of these actions, pro-democracy demonstrations carry on across the island.

Though the Anti-Extradition Bill protests led to the withdrawal of the extradition bill, protesters continue with their pro-democracy movement, guided by the following goals: getting Hong Kong’s Chief Executive Carrie Lam to resign, enacting universal suffrage, establishing an independent inquiry into Hong Kong police’s use of force during the protests, release and exoneration of arrested protesters, and the retraction of the characterization of the protests as “riots”. The spokesperson for the United Nations High Commissioner for Human Rights, Rupert Colville, released a statement in August expressing concern over the treatment of protesters and the escalation of violence. His statement reiterated the protesters’ calls for an inquiry into Hong Kong police’s use of force:

“The Office would urge the Hong Kong SAR authorities to investigate these incidents immediately, to ensure security personnel comply with the rules of engagement, and where necessary, amend the rules of engagement for law enforcement officials in response to protests where these may not conform with international standards.”
How the Congress of the United States Intends to Support the Protesters

The Hong Kong Human Rights and Democracy Act of 2019 is a direct response by the U.S. Congress to the Anti-Extradition protests, to the violence committed against protesters, and to other rights infringements in Hong Kong. Supported by Congressional Democrats and Republicans alike, with 47 cosponsors in the House of Representatives and 22 cosponsors in the Senate, the bill would create a process requiring the U.S. Department of State to submit an annual certification of Hong Kong’s autonomy to Congress. The report would determine “if China has eroded Hong Kong’s civil liberties and rule of law as protected by Hong Kong’s Basic Law.” The bill also declares intent to support the establishment of a democratic
option for nominating and electing a Chief Executive of Hong Kong, Hong Kong residents’ rights to free speech and free press, and Hong Kong residents’ freedom from arbitrary or unlawful arrest, detention, or imprisonment.

To achieve these goals, the bill sets up provisions for when these rights are eroded or targeted. One such provision calls for the U.S. President to report individuals and government bodies identified as infringing on internationally recognized human rights in Hong Kong and ban them from entering the United States while imposing sanctions on them. Other aspects of the Hong Kong Human Rights and Democracy Act protect U.S. citizens and long-term residents, U.S. businesses, and U.S. national security interests. According to the new law, the Department of Commerce would file an annual report to Congress determining if the Chinese central government attempted to use Hong Kong to bypass U.S. export control laws to develop their predictive policing systems, develop their social credit system, to violate sanctions against other nations, or to fund terrorism. The act would allow the U.S. to change Hong Kong’s special status in regards to trade and export controls if it determined Hong Kong is not sufficiently autonomous or the PRC is using Hong Kong’s status to bypass any U.S. export control laws.10

Reactions to the Hong Kong Human Rights and Democracy Act

Congressional officials believe the bill will provide significant motivation for the PRC to adhere to its original agreement in the Sino-British Joint Declaration. Nancy Pelosi, speaker of the House of Representatives, released a statement on September 18, 2019 in support of protesters and those leading the movement, saying:

“To reaffirm our commitment to democracy and human rights and the rule of law in the face of Beijing’s crackdown, we will bring this bill to the Floor as soon as possible. This bill is bipartisan, just as the Congress’s commitment to the people of Hong Kong is...We stand united with Joshua Wong, Nathan Law and Denise Ho and all who are fighting for a more hopeful future”.21

Critics such as representatives of the Chinese central government and the Hong Kong government have responded to the bill by saying it is a sign of interference in the internal affairs of Hong Kong and China. China’s foreign ministry spokesman Geng Shuang said the act

“confuses black and white in disregard of facts ...[and] grossly interferes in China’s internal affairs, which fully reveals the ill intentions of some people in the United States to mess up Hong Kong and contain China’s development.”22
Despite this, some pro-democracy Hong Kong officials have supported the U.S. bill such as Dennis Kwok Wing-hang and Alvin Yeung Ngok-kiu of the Civic Party.\textsuperscript{23} Thousands of Hong Kong protesters held a rally on October 14, 2019 calling for the bill’s passage.\textsuperscript{24} At the time of this writing, the Hong Kong Human Rights and Democracy Act has passed the House and is on its way to the Senate.\textsuperscript{25} By signing the bill into law, the United States will be taking its strongest stance in support of the protesters, showing Beijing it will not tolerate its broken promises to the people of Hong Kong.

References

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