

U.S. Policy on Hong Kong After Its Handover to China

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Abstract. This article studies the evolution of the United States' post-colonial Hong Kong (HK) policy from liberalism to realism. The author considers factors influencing this policy and differences between the White House/ Department of State and Congress in their assessment of and reaction to developments in HK. In 1992, Congress passed the United States–Hong Kong Policy Act, which treated HK as a non-sovereign entity distinct from China, made the United States a quasi-guarantor of HK's autonomy and provided a framework for the advancement of grand liberal strategy of the United States towards HK in pursuit of the promotion of Western-style democracy in this special administrative region of China. During the first 17 years following HK's handover to China, the U.S. government paid little attention to the region, avoiding public criticism of the Chinese authorities over the slow pace of territory's democratization, while some prominent anti-China hawks in Congress were unrestrained in such criticism. The 2014 protests in HK did not alter the U.S. government's cautious approach to HK. The Obama administration probably hoped for gradual democratic reforms in HK. Washington's policy towards HK made a dramatic turn in 2018 on the back of rapidly deteriorating U.S.–China relations after Donald Trump came to power. The Trump administration was disillusioned with the liberal agenda and was very eager to actively play the HK card against Beijing. The large-scale protests/riots in HK in 2019 challenging China's sovereignty over the territory were publicly supported, and in fact encouraged by top officials in the Trump administration and prominent Congressmen. After Beijing imposed the National Security Law (NSL) on HK in June 2020, the anti-government movement was squashed. This prompted Trump to strip HK of certain privileges under the HK Policy Act. The NSL caused Washington to lose many of its allies in HK, its influence in the territory diminished and its ability to promote American democracy agenda was hampered. NSL signifies a final transition from American liberal strategy to realism vis-a-vis HK, which is now fully covered by the U.S. policy to contain China. Washington will likely reduce its economic exposure to HK and use deep-seated anti-Beijing attitudes of some Hongkongers to undermine stability of this vulnerable territory of China.

Keywords: U.S. policy on China; U.S.–China relations; U.S.–Hong Kong relations; Hong Kong; grand strategy; interference in domestic affairs

¹ English translation from the Russian text: Veremeev N. 2022. Evolyutsiya politiki SShA v otnoshenii Gonkong. *Mezhdunarodnye protsessy* [International Trends]. 20(4). P. 52–92. <https://doi.org/10.17994/IT.2022.20.4.71.5>

In 1997, the United Kingdom handed its former colony Hong Kong back to the People's Republic of China. The United States had traditionally had a presence in Hong Kong, and during the Cold War, actively used the territory to serve its own interests. After 1997, Washington had to operate in an entirely different environment, in a sovereign territory of a non-friendly power. The scholar Cai Daiyun (Shenzhen University) believes that once Hong Kong was handed over to China, the balance of power changed in favor of Beijing (Cai 2001: 58). Given Hong Kong's special international and constitutional status, it was given broad autonomy. Washington sees it as a quasi-sovereign political unit. The U.S. policy towards this Chinese region is different from its policy towards mainland China, and it seriously affects overall U.S.–China relations. The Chinese scholar Li Huan notes that “Hong Kong is not only a unique political unit, but a separate customs territory with a major influence in the game of great powers” (Li 2016: 24). Li was correct in describing the essence of U.S.–Hong Kong relations as being “essentially China–U.S.–Hong Kong relations with a scalene triangle of relations that involves [principal] U.S.–China relations and [subordinate] China–Hong Kong and U.S.–Hong Kong relations” (Li 2016: 31). Although U.S.–Hong Kong relations are subordinated to and mediated by U.S.–China relations, they are separate and have their own dynamics, which determines the special policy of the United States towards Hong Kong. While bemoaning the fact that the academic community underestimates the U.S. involvement in Hong Kong affairs, the Hong Kong scholar Simon Xu has pointed out that U.S.–Hong Kong relations are unique in that they are determined by the asymmetrical relations between a superpower and a non-sovereign territory and, as such, require special scholarly attention (Xu 2016: 155).

What is the United States' policy towards Hong Kong based on? What are its theoretical foundations? How has this policy changed over the last 25 years and what caused these changes? This article is an attempt to answer these important questions.

Liberalism and Realism in the U.S. Policy Towards Hong Kong

The U.S. policy towards Hong Kong is characterized by two antagonistic approaches to international relations, namely, liberalism and realism. Since the early 1990s and until 2018, Washington's policy towards Hong Kong followed the “liberal grand strategy” paradigm, with the promotion of democracy being its integral part. American international relations theorist John Ikenberry is an eminent proponent of this concept.

Ikenberry notes that the promotion of democracy is based on strictly pragmatic considerations (not by idealism), and these considerations reflect the economic and security interests of the United States. The latter is better able to pursue its interests, reduce security threats in its environment, and foster a stable political order when other states – particularly the major great powers, are democracies and, moreover, are integrated into international institutions (Ikenberry 2019: 5, 41, 62). The American expert indicated a major interdependency between economic prosperity and democracy

and claimed that stable peace is only possible between democracies (Ikenberry 2000: 113–115; 2011: 64, 252, 339; 2019: 18, 202; 2020: 312). Ikenberry admits that the phenomenally successful liberal/democratic/capitalist world order has a hierarchy, and the United States on top of it forms a predictable international relations environment that accords with long-term U.S. interests. American hegemony is somewhat balanced by international norms and institutions that are voluntarily adopted (not imposed) and endow this world order with legitimacy and stability, making it similar to a weak intra-state constitutional order that finds its fullest manifestations in western democracies (Ikenberry, Mastanduno 2003; Ikenberry 2011; 2019).

The expansion of the American liberal order is accompanied by the exaltation of the principle of human rights and the weakening of states sovereignty, which allows the United States to gain access to the political and economic systems of other states, orient them towards the United States, interfere in the domestic affairs of weaker states and states in a crisis (Ikenberry 2011; 2019). The elites of second-tier states that are woven into the liberal world order play an important role in this process, as they derive direct economic benefits from their position (Ikenberry 2011: 74).

An interesting feature of the liberal world order is that it is easy to join, but very difficult to change (overturn), and this difficulty extends to China as well (Ikenberry 2011; 2019). Donald Trump's presidency demonstrated that when the United States attempts to step back from its hegemonic role, the global system becomes destabilized and its liberal democratic foundations weaken (Ikenberry 2019). Although the United States' power in current international institutions may lessen in the course of the evolution of the liberal world order, the United States should not lose its status as the first among equals (Ikenberry 2011: 309, 335; 2020: 237).

Ikenberry notes that Washington's policy under the Clinton administration was aimed at integrating China into the open trade system that would presumably institute political pluralism and rule of law in China, "socialize" Beijing as part of the liberal world order, and reduce threats to American interests (Ikenberry 2000; 2019; Ikenberry, Mastanduno 2003). In the early 2000s, Ikenberry and Michael Mastanduno admitted that the massive differences in the political systems of China and the United States preclude the possibility of China becoming fully integrated into the American order established in the Asia-Pacific. Noting that China cannot imitate the United States and become a regional hegemon (its authoritarian regime allegedly prevents China from building China-guided international institutions), Ikenberry and Mastanduno supported advancing the unfinished hegemonic project of the United States in the region by institutionalizing it. They advocated giving China a seat in these institutions in exchange for recognizing and respecting U.S. strategic interests, including its dominant standing in ensuring regional security (Ikenberry, Mastanduno 2003; Ikenberry 2011; 2019). Integrating China into the liberal world order would allow the United States to influence China's development, while China itself could change its political regime (Ikenberry 2011; 2020). This scenario failed to materialize because of the eroding liberal system. Consequently, Ikenberry has been inveighing against Washington's

strategic mistake of allowing China to join the liberal club without setting it any conditions and allowing Beijing to pick and choose those aspects of the liberal world order that benefitted it (the open trade system), while ignoring other aspects such as human rights and rule of law (Ikenberry 2022; 2020).

John Mearsheimer, the pillar of the neorealism school (the opposite of liberalism), believes that the United States was doomed to fail in its overzealous post-Cold War crusade to build a liberal world order in America's image and likeness (where the United States would serve as the sole global centre). This attempt was accompanied by belligerence (a propensity towards the unlimited use of military force), a surprising intolerance for so-called non-liberal states, a lack of respect for their sovereignty, and ignoring the United States' own rules (when it suited Washington to do so). Worldwide propagation of liberal values is curtailed when the range of all possible "-isms" is dominated by the ideology of nationalism based on a furious defense of their right to self-determination on the part of those states that do not tolerate any interference in their domestic affairs. Mearsheimer believes that the inevitable failure of American liberal hegemony strategy (the promotion of democracy) will force Washington to transition to a more restrained and realist foreign policy and admit that nationalism restricts the great power's ability to directly interfere in the policies and politics of other states by instituting (socially engineering) the western model of democracy and western values. The United States will inevitably shift its foreign political gears and turn towards realism (even if it will still have elements of liberalism) since the global system has other great "non-democratic" powers (Russia and China) that constitute a potential threat to propagating the liberal ideology and promoting liberalism. A liberal hegemony can theoretically be built only in the unipolar world (Mearsheimer 2014; 2018; 2019).

With Donald Trump coming to power in the United States in 2017, realism pushed out liberalism; Trump admitted that liberalism had failed spectacularly and attempted to discard the principal elements of the liberal hegemony strategy (Mearsheimer 2018). In Mearsheimer's words, (advancing) realism means that great powers will constantly struggle for hegemony in their respective regions while simultaneously seeking to prevent the great powers in other regions from achieving a similar hegemony there (Mearsheimer 2014). The confrontation between great powers assumes the form of building up military and economic power, and liberal institutions and norms are incapable of containing this confrontation. The United States preserves its hegemony in the western hemisphere, yet it is concerned with China's growing economic and military potential and seeks to prevent Beijing from achieving hegemony in East Asia, primarily through a policy of military and economic containment of China comparable to its strategy of containing the USSR (Mearsheimer 2018; 2019). Mearsheimer believes that China may be weakened through a rollback policy that would eliminate regimes friendly to Beijing, and through creating hotbeds of tension in China itself by supporting separatists in Tibet and Xinjian (and also in Hong Kong, although Mearsheimer does not mention Hong Kong by name).

Neither Ikenberry nor Mearsheimer mention Hong Kong, but their theoretical paradigms are useful for explaining the U.S. policy towards it. The key here is Hong Kong's autonomy. This megalopolis has internalized/inherited many colonial British attributes: liberalism without democracy; a market economy; effective rule of law; openness to the outside world; and solid connections built over decades among the local economic and political elites (both pro- and anti-China) with the West, primarily the United States. More than any other Chinese territory (we are leaving Taiwan out of consideration here), Hong Kong is tied into the liberal world order and remains an integral part of it. These features of Hong Kong make it attractive for the United States in promoting the liberal project. At the same time, in order for China to view Hong Kong as a model for transitioning to democracy, the unfinished democratization process launched in the final years of the British colonial rule needs to be completed. Establishing and entrenching a western-type democracy in Hong Kong (together with current traditional economic and "elite" ties with Western states) would create a solid link between the territory and the American liberal world order while simultaneously preventing the megalopolis from fully integrating into China's political space. Professor Daniel Vukovich of the University of Hong Kong notes that Hong Kong's pan-democrats² (an integral part of the political establishment of the autonomous region whom Beijing tolerated until late 2020) naively believed in the *liberal convergence* of Hong Kong and China – that Hong Kong would first establish a democratic system and then China would follow suit under the influence of the anti-Beijing movement with China's authoritarian system imploding and the country turning towards "normalcy," i.e. liberal democracy (Vukovich 2019: 172).

Although the expectations of the pan-democrats' appear naïve, they were based on the "liberal" foundation laid by the British (with the powerful cultural, educational, and ideological influence of the United States) before withdrawing from their former colony, which was conducive to promoting the liberal strategy in post-colonial Hong Kong that was initially fairly free from Beijing's political pressure. For a long time, postcolonial Hong Kong had more in common with liberal democracies than with China. Xu identified four prerequisites for successfully applying the liberal strategy to Hong Kong: (a) common ideologies and political structures in the United States and Hong Kong; (b) disparate capabilities, which means that the weaker Hong Kong will be receptive to the liberal principles coming from the United States; (c) economic interdependence; and (d) high-density U.S.–Hong Kong interactions creating the atmosphere of mutual trust (Xu 2016: 159–160, 176–177).

In the first years after the handover to China, Hong Kong, with its active pro-democratic opposition, appeared to have good chances for democratization (given that the opposition had long-standing relations with the U.S. political establishment) and preserving and developing liberal rights and freedoms protected by a strong and independent judiciary whose authority is unquestionable. And Washington (with its

² The term "pan-democrats" means a very weak and wobbly coalition of Hong Kong's pro-democratic forces.

leading members of Congress being somewhat sceptical) continued to hold hopes for Hong Kong even after the central government stepped up and tightened its control over the autonomy when Xi Jinping came to power in 2012. These hopes never materialized, and the political cataclysm in Hong Kong in 2019, coupled with Beijing's tough response to it, forced Washington to restructure its relations with Hong Kong on a new foundation of the realist paradigm.

Even though Hong Kong is important for the United States, very few expert publications on Washington's Hong Kong policy exist in American, much less Chinese, scholarship. All the works on the subject were written before the changes implemented in Hong Kong in the wake of large-scale and months-long protests and riots of 2019–2020 that radically altered U.S. foreign policy towards the Chinese autonomy. The present article will attempt to fill this gap and evaluate the consequences of the conceptual transition that has taken place in the U.S. policy towards Hong Kong, from liberalism spurred by the triumph and wishful thinking of the U.S. foreign political establishment after the Cold War to realism following the collapse of hopes for Hong Kong's transformation into a liberal and democratic antipode of authoritarian China, and to recognizing Hong Kong's independence from China, the objective of the United States' containment policy.

Preparations for Handing Hong Kong Over to China

Before World War II, Hong Kong was of interest to the United States mostly as a free port, one of the centres of trade with China. During the Cold War, it became a convenient venue for collecting information about the People's Republic of China. When China opened up to the outside world and launched large-scale economic reforms in 1978, Hong Kong gained greater economic value for the United States. On December 19, 1984, the United Kingdom and China signed the Joint Declaration on the Question of Hong Kong (hereinafter the Joint Declaration),³ which set the date of handing Hong Kong over to China (July 1, 1997). The document outlined a social, political, and economic system that was radically different from that of the People's Republic of China: Hong Kong was granted broad autonomy⁴ (with the exception of foreign policy and defense) based on the "One Country, Two Systems" (OCTS) principle. This unique status was enshrined in the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China adopted on April 4, 1990 by the National People's Congress (hereinafter the Basic Law).⁵

³ Joint Declaration on the question of Hong Kong, 1399 U.N.T.C. 23391.

⁴ Hong Kong is an open port, has its own currency, taxation, economic, and social policies, and issues its own passports.

⁵ The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Adopted at the Third Session of the Seventh National People's Congress on 4 April 1990 Promulgated by Order No. 26 of the President of the People's Republic of China on 4 April 1990 Effective as of 1 July 1997). The adoption of the Basic Law was one of China's commitments under the Joint Declaration. Under the Basic Law, Hong Kong will have autonomy until 2047 (although it may be extended).

Amid these developments, the United States began pondering its future policy towards Hong Kong. The bloody events in Tiananmen Square in June 1989 played an important part in shaping this policy, causing many American officials and politicians to doubt the Chinese government's commitment to the obligations set forth in the Joint Declaration. Heated debates on the U.S. Hong Kong policy ensued. Congress spearheaded the development of this policy (Bush 2016: 249–251; 2020: 352).

The United States–Hong Kong Policy Act⁶ sponsored by the Republican Senator Mitchell McConnell⁷ (hereinafter the 1992 Act) served as the basic document for the policy. Beijing protested, treating this document as interference in its domestic affairs.⁸ The first draft of the 1992 Act declared that the U.S. Congress and President supported China's full compliance with the Joint Declaration. Articles 101–105 of the Act pertaining to bilateral U.S.–Hong Kong relations and U.S.–Hong Kong interactions in multilateral international organizations and agreements are based on the principles of the Joint Declaration⁹ that emphasize Hong Kong's autonomy in non-political bi- and multi-lateral relations: (1) establishing and expanding bilateral trade, economic, financial, aviation, navigational, and cultural agreements; (2) keeping the Consulate General and offices of semi-official organizations of the United States in Hong Kong; (3) semi-officially preserving Hong Kong's trade, economic, and missions in the United States; (4) recognizing passports issued by Hong Kong's immigration authorities; (5) supporting Hong Kong's involvement in international organizations, conferences, and agreements open to non-sovereign actors; (6) Washington's fulfilling its obligations to Hong Kong under reciprocal international agreements, regardless of China's membership in such agreements, and so on. Li Huan analyzed the 1992 Act and identified four main areas of U.S. interests in Hong Kong: (a) preserving and expanding economic and cultural ties; (b) bi- and multilateral cooperation; (c) the U.S. Navy using the logistics potential of Hong Kong's port; and (d) promoting U.S. (democratic) political values in Hong Kong (Li 2016: 24–27). Let us dwell on the last item in more detail.

Article 201 of the 1992 Act stipulated that agreements, including multilateral agreements, between the United States and Hong Kong or between the United States and the United Kingdom pertaining to Hong Kong concluded prior to July 1, 1997, as

⁶ United States–Hong Kong Policy Act of 1992, 22 U.S.C. § 5701–5732. The Act was signed into law by U.S. President George H. Bush on October 5, 1992.

⁷ Some U.S. scholars believe that the idea of the 1992 Act was suggested to McConnell by Li Zhuming (Martin Lee Chu-Ming, a pillar of Hong Kong's democratic movement, a co-founder and first chair of the United Democrats of Hong Kong, which some Congressmen dubbed "Hong Kong's Yeltsin" (Tucker 1994: 220; Bush 2016: 250). He may have even authored the first draft of the Act for McConnell. (This article gives the names of Hong Kong politicians in the standard Chinese based on the Northern [Beijing] dialect and their names in the traditional English spelling based on the Cantonese dialect used in the Southern Chinese province Guangdong and in Hong Kong).

⁸ See: Meiguo dui gang huiwu renquan da bang bujin weishan erqie tulao (U.S. wielding the human rights baton against Hong Kong is not only hypocritical but also futile) // *Zijing zazhishe* (Bauhinia Magazine). September 2020. URL: https://bau.com.hk/article/2020-09/04/content_926251316539387904.html (accessed: 26.05.2022).

⁹ These principles were briefly outlined in para. 3 of the Joint Declaration and detailed in Annex I to the Joint Declaration (Elaboration by the Government of the People's Republic of China of Its Basic Policies Regarding Hong Kong).

well as U.S. laws, would continue to apply after the date. If a U.S. President decides that the autonomy has been weakened, they have the power to suspend a particular U.S. Act, granting Hong Kong special preferences. In this case, the President proceeds from compliance with the conditions, commitments, and expectations concerning Hong Kong enshrined in the Joint Declaration. Tellingly, the text does not mention the Basic Law. “Expectations” likely meant the U.S. vision (below, we will show that this is not grounded in the Joint Declaration) of Hong Kong gradually instituting a democratic regime based on liberal western values, which would promote democratic transformation in mainland China, just like Hong Kong’s economic model would serve as a model for liberal economic reforms in China.¹⁰ Cai Daiyun claimed that the principal purpose of the 1992 Act is to interfere in Hong Kong’s affairs to bolster its influence on socialist China, and such a manifestation of American hegemony prompts opposition from the Chinese people (Cai 2001: 60, 62). Such an interpretation is far from groundless: it is supported by Congress’ declaration contained in Article 2(5) of the 1992 Act that supporting democracy is a fundamental principle of U.S. foreign policy, and this principle naturally applies to Hong Kong. This declaration was in line with expansionism inherent in the liberal ideology, as Ikenberry said (Ikenberry 2022: 230, 246, 254). Li identified the differences in the U.S. approaches to supporting democracy in Hong Kong and China. As regards political developments in mainland China, the United States was an observer, unable to influence them, while in Hong Kong, Washington hoped to see the western democratic model become entrenched by bolstering civil society and involving citizens, particularly the young generation, in political developments (Li 2016: 29). Xu did not view promoting democracy in Hong Kong as a threat to China, but noted that the attempt of the United States to influence Hong Kong’s political leanings sometimes crossed the border of promoting democratic values as such and turned into attempting to oppose China’s authority by rallying the powers of Congress and NGOs linked with the U.S. government with a view to stoking anti-government sentiments in Hong Kong (Xu 2016: 179).

Expectations concerning Hong Kong’s democratization were a product of American ideological paradigms (and/or illusions) that had no foundations in the Joint Declaration, the Basic Law, or statements of China’s leaders. The Joint Declaration did not envision China undertaking any international legal commitments to ensure pro-western democratic reforms in Hong Kong,¹¹ and this fact was frequently omitted in

¹⁰ Richard C. Bush wrote that “if a future administration were to give democracy promotion a higher place on the U.S. agenda for China policy, Hong Kong would be a likely place to start [...] Those who would place a high priority on democratizing China would say that, at a minimum, a democratic Hong Kong should serve as an example for the rest of the country. More ambitiously, they might say that it could be a useful platform for activities across the border” (between China and Hong Kong) (Bush 2016: 269).

¹¹ Part I of that section in Annex I to the Joint Declaration that treats the matters of the head of the administration, the supreme officials, and the Legislative Council did indeed say that the chief executive of the HKSAR should be selected via an election or consultations held in the autonomy and to be appointed by the central government, while the legislature should be elected. The Joint Declaration, however, did not specify the elections procedure. Consequently, China continued the British colonial practice of forming part of Hong Kong’s parliament by having legislators elected by members

statements made by American politicians and statespersons. Some U.S. researchers did mention this fact in their official statements, as did Michael Martin, a Congressional analyst, and Richard C. Bush (Martin 2011; Bush 2016; Summers 2019).¹² Moreover, Deng Xiaoping, China's *de facto* leader (the late 1970s–early 1990s) and the main driving force behind China regaining its sovereignty over Hong Kong based on the OCTS principle, repeatedly stressed that Hong Kong should not follow the path of pro-western democratization: Hong Kong's governance should not be fully westernized; no western system should be fully copied in Hong Kong (Deng 2004: 74–75). Moreover, he stated that the Hong Kong Special Administrative Region (HKSAR) should be led by patriots, those citizens of Hong Kong who love both China, their homeland, and Hong Kong, and who would govern Hong Kong without detriment to the interests of either (Deng 2004: 17, 26, 75).¹³

The desire of the United States to set the direction of Hong Kong's political development is concretized in its monitoring of the situation in Hong Kong. This monitoring activity could lead to sanctions for deviating from the liberal development course. Xu called this monitoring of democratization and respect for human rights the principal element of the 1992 Act and the foundation of the U.S. policy of active interference in Hong Kong's domestic affairs (Xu 2016: 162). The 1992 Act empowered the U.S. President to determine Hong Kong's legal competence to comply with its commitments under international treaties and the expedience of recognizing Hong Kong's rights and obligations under such treaties. The President should inform Congress on the matter. Article 301 of the 1992 Act mandated that the U.S. Secretary of State submit annual reports¹⁴ to the speaker of the House of Representatives and the Chair of the Senate Committee on Foreign Relations covering the following areas: (1) important events in U.S.–Hong Kong relations; (2) changes in the exercise of China's sovereignty over Hong Kong that also affect U.S. interests in Hong Kong and U.S.–Hong Kong

of special socioeconomic groups. This practice did not violate the provisions of the Joint Declaration. In the meantime, Articles 45 and 68 of the Basic Law said that the ultimate goal was to have the chief executive of the HKSAR elected by universal suffrage pursuant to candidates being proposed by a broadly representative nomination committee that follows democratic procedures and to have the entire Legislative Council elected by universal suffrage with the reservation that both goals were to be achieved gradually with account for the autonomy's political situation.

¹² Prospects for Democracy in Hong Kong: Assessing China's International Commitments // Roundtable before the Congressional-Executive Commission on China, Washington: U.S. Government Printing Office. 14.07.2010. 31 p. URL: <https://www.cecc.gov/sites/chinacommission.house.gov/files/documents/roundtables/2010/CECC%20Roundtable%20-%20Democracy%20Hong%20Kong%20Assessing%20China%27s%20International%20Commitments%20-%20207.14.10.pdf> (accessed: 07.06.2021).

¹³ The White Paper published by China's State Council in 2014 (see below) noted that patriotism and loyalty to China is the minimal ethical requirement for Hong Kong politicians; the condition of Hong Kong being governed by patriots was enshrined in the Basic Law (chapter V, part 3). In 2021, the concept of Hong Kong being governed by patriots would be fully formalized in several national and local decisions and laws that identify the concept "patriot" with persons selected and trusted by Beijing. See: Preamble, para. 3; chapter V, part 3; Chapter VI, 2), White Paper on Hong Kong's Democratic Development. December 20, 2021 (hereinafter the 2021 White Paper) (Preamble, para. 3; chapter V, part 3; Chapter VI, 2), White Paper on Hong Kong's Democratic Development. 20.12.2021. URL: <https://www.chinadailyhk.com/article/252582#Full-text-White-paper-on-Hong-Kong's-democratic-development> (accessed: 18.06.2022).

¹⁴ Under the Act, the reports were to be submitted until 2006, yet on April 1, 2007, the Department of State submitted another report to Congress. Reports were resumed in 2015.

relations; (3) the nature and scope of U.S.–Hong Kong relations in culture, education, and science; (4) U.S. Acts suspended pursuant to Article 202(a) of the 1992 Act; (5) international treaties with Hong Kong or concerning Hong Kong that the United States has denounced; (6) major problems in U.S.–Hong Kong cooperation in control over exports of strategic commodities; (7) the development of democratic institutions in Hong Kong; and (8) the nature and scope of Hong Kong’s involvement in multilateral international associations.

Additionally, Congress mandated that reports on China also include special sections on Hong Kong. In particular, annual reports on the human rights situation in China include a separate chapter on Hong Kong. Xu viewed the reports on human rights and democratization in Hong Kong as both a confirmation of the commitment of the United States to the liberal strategy, and as an emphasis on the differences between the political cultures of Hong Kong and China, which allowed Washington to play the “Hong Kong card” in putting pressure on China (Xu 2016: 164).

Richard C. Bush’s study showed that the final, lighter version of the 1992 Act does not include the requirement (present in the draft version) that the Department of State’s reports evaluate the compliance with the Joint Declaration in Hong Kong since “such wording would have placed the U.S. government in the position of judging whether the People’s Republic of China had fulfilled the obligations undertaken [under the Joint Declaration – N. V.]” (Bush 2016: 251). Nevertheless, as soon as September 1996, Congress cited flaws in the Hong Kong reports prepared by the Department of State under the 1992 Act and added Article 571 Omnibus Consolidated Appropriations Act for the fiscal year 1997;¹⁵ this article mandated that the Secretary of State’s reports include detailed information on: (1) the Basic Law and its alignment with the Joint Declaration; (2) whether elections of the HKSAR’s chief executive are open and unrigged and whether the executive authorities are accountable to parliament; (3) independent courts; (4) the position of political parties; and (5) the Bill of Rights.¹⁶ New requirements for the reports vested the Department of States with the functions of an arbiter that determines whether China is in compliance with its commitments under the Joint Declaration. Even though the United States is not a party to the Joint Declaration, it has thereby appropriated the right to determine whether or not China is fulfilling its obligations under this international document. Relying on its influence on and significance for Hong Kong’s economic and financial system, the United States has essentially proclaimed itself to be a quasi-guarantor of the Joint Declaration.

¹⁵ Omnibus Consolidated Appropriations Act, 1997, H.R. 4278 (104th).

¹⁶ The Hong Kong Bill of Rights Ordinance, Cap. 383 based on the 1966 International Covenant on Civil and Political Rights (hereinafter the Covenant) was adopted by Hong Kong’s colonial Legislative Council on June 8, 1991. Article 39 of the Basic Law guarantees compliance with the Covenant, which should not contradict with other laws of the autonomy. Simon Xu believes that recognition of the Covenant should have guaranteed Hong Kong’s staunch commitment to the democratic path (Xu 2016: 167).

This description shows that the 1992 Act that had laid the foundations of the U.S. policy towards Hong Kong before its handover to China used liberal hegemony provisions to set a course for Hong Kong's democratization via the growing local democratic movement, whose leaders had close ties with the U.S. political establishment. The 1992 Act also envisaged building up economic ties with the United States, which also agreed with the liberal strategy axiom of economic interactions being conducive to developing democracy. Implementing the provisions of the Joint Declaration and the Basic Law (in the distorted U.S. interpretation) and Hong Kong's commitment to Washington-supported international institutions and treaties that enshrine universal liberal values and norms (positioned as international standards of human rights and democracy) were intended to entrench the autonomy's involvement in the U.S.-led liberal world order. Hong Kong's commitment to the liberal world order should have been rewarded with the progressive development of economic ties between the Hong Kong elite and the United States (this elite remained Beijing's principal buttress in the HKSAR following Hong Kong's handover) and with the expansion of the access of the pro-Beijing political elite to western perks (the possibility of emigrating and obtaining a western education for themselves and close relatives). In the meantime, liberal values were entirely alien to Hong Kong's new suzerain as demeaning to national Chinese/Han identity and values, and as threatening China's sovereignty over Hong Kong. China's leadership connected Hong Kong's handover with overcoming the consequences of a hundred-year-long humiliation when the weak China had fallen victim to Western imperialism. As Ikenberry notes, "States can possess full Westphalian legal sovereignty [...] or else submit to agreements and institutions that involve some abridgement of their sovereignty" (Ikenberry 2020: 43).

The U.S. Hong Kong Policy from July 1997 to October 2014

Despite the apocalyptic expectations in the West and, to some degree, in Hong Kong, the handover to China went smoothly. In Hong Kong's first six years as a special administrative region, Beijing followed the policy of maximum non-interference in the affairs of the HKSAR. Despite statements on being governed by patriots, Hong Kong did not introduce a patriotic education system for the young generation. The United States gave a generally positive evaluation of Hong Kong's autonomy, as shown by the first ten annual reports (1997–2007) prepared by the Secretary of State for the U.S. Congress per Article 301 of the 1992 Act.¹⁷ Statements and speeches by U.S. diplomats manifested the same attitude.¹⁸ In its congressional reports, the Department of State avoided direct statements concerning the Basic Law's alignment with the Joint

¹⁷ The 1997–2007 reports are available on the website of the U.S. // Consulate General in Hong Kong. URL: <https://hk.usconsulate.gov/our-relationship/official-reports/>.

¹⁸ Schriver R. Democracy in Hong Kong. Testimony before the Senate Foreign Relations Committee, Subcommittee on East Asia-Pacific Affairs, Washington, March 4, 2004. URL: <https://2001-2009.state.gov/p/eap/rls/rm/2004/30155.htm> (accessed:20.04.2021); Hearings before a Subcommittee of the Committee on Appropriations of the United States Senate.

Declaration, claiming that “the United States does not offer technical legal interpretations of agreements to which it is not a party. Although some critics in Hong Kong contend that certain elements of the Basic Law violate the Joint Declaration, neither party to the agreement has done so. In such cases, it is inappropriate and premature for the United States to attempt definitive legal pronouncements as to the meaning of disputed provisions of the Joint Declaration, or whether one of the parties may have breached its obligations [...] any U.S. judgment regarding consistency of the Joint Declaration and Basic Law should await implementation of the Basic Law and the statements and actions of the parties themselves.”¹⁹ The Department of State’s reports and classified cables sent by the Consulate General in Hong Kong to the Secretary of State (and published by WikiLeaks²⁰) heaped special praise on the independent judiciary (that largely copied the British judiciary), respect for civil rights and freedoms, cooperation with the United States in law enforcement (the two parties signed agreements on legal cooperation, extradition of suspects, and transfer of prisoners), and control over exporting strategic technologies and materials.²¹ Chinese officials noted that the Department of State’s reports were positive and there was no need for them.²²

At the same time, statements and reports of the Department of State expressed concern over slow pace of democratization of the HKSAR’s political system,²³ although the procedure for electing the Legislative Council convened in 1998, 2000, and 2004

Washington: U.S. Government Printing Office, 2005. URL: <https://www.congress.gov/event/108th-congress/senate-event/LC13902/text?q=0/o7B°/o22search°/o22°/o3A°/o5B°/o22Hong+Kong°/o22°/o2C°/o22Hong+Kong°/o22°/o5D°/o7DS.s=6S.r=47> (accessed: 06.05.2021).

¹⁹ United States–Hong Kong Policy Act Report, March 31, 1997. URL: https://1997-2001.state.gov/regions/eap/970331_U.S.-hk_pol_act_rpt.html (accessed: 20.04.2021). In its 1998, 1999, and 2000 reports, the Department of State abstained from drawing its own conclusions, yet cited semi-annual reports on the Hong Kong situation by the UK Foreign Secretary reporting to the UK Parliament. These reports contained a generally positive assessment of compliance with the Joint Declaration and the OCTS principle. The 2001–2007 reports did not mention the issue of compliance with the Basic Law. On the other hand, the United States–China Economic and Security Review Commission established by Congress has been reporting on China’s violations of the Basic Law since 2014 (see below).

²⁰ See, for instance: Upon this Rock: Hong Kong Rule of Law Remains Solid (Part I). Cable ID no. 10HONGKONG333_a. 26.02.2010. URL: https://wikileaks.org/plusd/cables/10HONGKONG333_a.html; Upon this Rock: Hong Kong Rule of Law Remains Solid (Part II). Cable ID no. 10HONGKONG334_a. 26.02.2010. URL: https://wikileaks.org/plusd/cables/10HONGKONG334_a.html (accessed: 08.08.2021).

²¹ The Department of State’s 2000 report expressed concern over Hong Kong possibly being used to give China access to sensitive (dual-purpose) technologies, particularly via using the transportation capabilities of the Hong Kong’s garrison of the People’s Liberation Army (hereinafter the PLA) that were not subjected to Hong Kong’s customs inspections. (United States–Hong Kong Policy Act Report, 1 April 2000. URL: https://1997-2001.state.gov/regions/eap/000401_U.S.-hk_pol_act_rpt.html (accessed: 21.04.2021)). Later, the 2009 and 2012 reports of the U.S.–China Economic and Security Review Commission established by Congress again raised the issue of using Hong Kong as a basis for illegally transferring sensitive technologies to China (2009 Annual Report To Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, 28 October 2009. 369 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/2009-Report-to-Congress.pdf (accessed: 07.07.2021); 2012 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 9, 2012. 497 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/2012-Report-to-Congress.pdf (accessed: 07.07.2021)).

²² See Para. 1, 2 and 4 PRC MFA Commissioner Discusses Democratic Reform Policy Act Report. Cable ID no. 07HONGKONG1854_a. 13.07.2007. URL: https://wikileaks.org/plusd/cables/07HONGKONG1854_a.html (accessed: 09.08.2021).

²³ Hearings before a Subcommittee of the Committee on Appropriations of the United States Senate. Washington: U.S. Government Printing Office, 2003. URL: <https://www.congress.gov/event/107th-congress/senate-event/LC17081/text?q=%7B°22search°22°/3A°5B°22Hong+Kong°22°2C°20°22Hong+Kong°22°5D°7D&s=6&r=53> (accessed: 06.05.2021).

was recognized as transparent, fair, and honest. The U.S. authorities were concerned that the HKSAR's chief executive and the Legislative Council were not elected via universal suffrage,²⁴ which was slated to be introduced in 2007, but the decisions of the NPC's Standing Committee of April 29, 2004 and December 29, 2007 pushed the introduction of universal suffrage back to 2017 for the HKSAR's chief executive, while the deadline for introducing Legislative Council election by universal suffrage was not clearly specified. These decisions enshrined the role of the NPC's Standing Committee in amending the procedure for electing the chief executive of the autonomy and its parliament.

Beijing's new course was to a large degree determined by mass protests against the national security bill proposed by Hong Kong's government in compliance with Article 23 of the Basic Law that was wholly supported by Hong Kong's pan-democratic parties, the U.S. Congress and American NGOs (Xu 2016: 179). The protesters demanded democratic reforms from the opposition, which was hostile to China's communist system and saw Hong Kong as a democratic entity that was formally part of China but in whose affairs the central authorities should not interfere. The opposition allowed for only nominal Chinese sovereignty over Hong Kong (which aligned with the U.S. understanding of Hong Kong's status, reflected in the 1992 Act). Daniel Vukovich claimed that the calls of traditional pan-democrats for autonomy are an open, barely concealed code for complete independence, since complete autonomy would *de facto* mean independence (Vukovich 2020: 12). Naturally, Beijing did not trust the opposition, branding it "non-patriotic." Washington condemned the abovementioned decisions of the NPC's Standing Committee,²⁵ while the 2004 and 2005 reports of the U.S.–China Economic and Security Review Commission (hereinafter the Review Commission)²⁶ called upon Congress to hold consultations with the U.S. government to gauge whether these decisions undermined Hong Kong's autonomy in violation of the Basic Law and the OCTS principle. If such violations did indeed take place, the suggestion would be for the President to use his prerogative to suspend those U.S. acts that granted Hong Kong preferences/special rights under Article 201(a) of the 1992

²⁴ The sections on Hong Kong in the annual reports the Department of State compiled on human rights in China during that period were generally positive in their assessment of the state of human rights. The most pressing issues, according to the reports, were the restrictions on citizens changing their government through free and fair elections (although the process of electing half the Legislative Council was generally described as honest), and the curtailed legislative rights and functions of control over the executive branch in the Hong Kong parliament. The reports also listed other problems such as restricted freedom of press (self-censorship) and arrests. See the 1998–2014 reports: The Annual Country Reports on Human Rights Practices. URL: <https://2009-2017.state.gov/j/drl/rls/hrrpt/index.htm> (accessed: 28.07.2021).

²⁵ The Secretary of State's report to Congress called the decision of the Standing Committee of the National People's Congress (NPC) of April 29, 2004 a severe test of Hong Kong's political autonomy (United States–Hong Kong Policy Act Report, April 1, 2005. URL: <https://2001-2009.state.gov/p/eap/rls/rpt/44543.htm> (accessed: 20.04.2021)).

²⁶ The Commission is Congress's advisory body. Its 12 members are appointed by the House speaker and the leaders of Republicans and Democrats in both the House and the Senate. The Commission's delegation regularly visited Hong Kong to collect and assess information, and met with the HKSAR's officials, local politicians, and experts.

Act.²⁷ Subsequent reports of the Commission were less categorical in their recommendations, containing calls for a dialogue with Hong Kong and Chinese politicians. In turn, the Joint Congressional-Executive Commission on China (hereinafter the Joint Commission)²⁸ criticized the abovementioned decisions of the NPC's Standing Committee as non-compliant with the OCTS principle.²⁹

During the period under consideration, Congress, the Review Commission, and the Joint Commission remained critical of the political developments in the HKSAR and China's policies in Hong Kong, and sometimes exaggerated the feeling of danger emanating from Beijing's actions,³⁰ and their recommendations were more stringent than those of the Department of State, which avoided making harsh statements concerning political changes spearheaded by China.³¹

²⁷ 2004 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, June 10, 2004. 290 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/2004-Report-to-Congress.pdf (accessed: 07.07.2021); 2005 Annual Report To Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 9, 2005. 263 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/2005-Report-to-Congress.pdf (accessed: 07.07.2021).

²⁸ Congress established the Joint Commission in 2000 to monitor human rights and the rule of law in China. The Commission submits annual reports to Congress and the President, which contain a special section on Hong Kong. The Commission is made up of nine members of the House, nine senators, and five members of the administration (the Department of State, the Department of Commerce and Labor). Within 30 days upon receiving the report, the House Foreign Affairs Committee must hold hearings on it.

²⁹ 2004 CCEC Report. Congressional-Executive Commission on China, Washington: U.S. Government Printing Office, October 2, 2004. 78 p. URL: <https://www.cecc.gov/sites/chinacommission.house.gov/files/2004%20CECC%20Annual%20Report.PDF> (accessed: 29.05.2021); 2008 CCEC Report. Congressional-Executive Commission on China, Washington: U.S. Government Printing Office, October 31, 2008. 289 p. URL: <https://www.cecc.gov/sites/chinacommission.house.gov/files/2008%20CECC%20Annual%20Report.PDF> (accessed: 05.06.2021).

³⁰ The Review Commission criticized the PLA's greater presence in Hong Kong as a potential threat to the democratic movement in the event of mass protests (2014 Annual Report To Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November, 20 2014. 599 p. 553 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/Complete%20Report.PDF (accessed: 07.07.2021); 2016 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 16, 2016. 553 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/2016%20Annual%20Report%20to%20Congress.pdf (accessed: 07.07.2021); 2017 Annual Report To Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 15, 2017. 643 p. URL: https://www.uscc.gov/sites/default/files/2019-09/2017_Annual_Report_to_Congress.pdf (accessed: 07.07.2021)). In fact, the PLA's Hong Kong garrison was not involved in suppressing the 2014 and 2019 protests. The Joint Commission's 2004 report presented Chinese ships passing through Victoria Harbour in the spring of 2004 as an attempt to intimidate supporters of democracy (2004 CCEC Report. Congressional-Executive Commission on China, Washington: U.S. Government Printing Office, October 2, 2004. 78 p. URL: <https://www.cecc.gov/sites/chinacommission.house.gov/files/2004%20CECC%20Annual%20Report.PDF> (accessed: 29.05.2021)). Any action of the Chinese garrison, for example, clearing the rubble after the typhoon of October 2018, prompts great indignation of Hong Kong democrats supported by the United States. The democrats bombard the PLA with a flurry of accusations of violating the Basic Law and Hong Kong's Law on the Hong Kong PLA Garrison (United States–Hong Kong Policy Act Report, 21 March 2019. URL: <https://2017-2021.state.gov/2019-hong-kong-policy-act-report/index.html> (accessed: 28.05.2021)).

The Joint Commission's 2002 report and the Review Commission's 2006 report are rare exceptions here, as they say that Hong Kong's political and economic guarantees as envisaged by the Joint Declaration are generally preserved with a few exceptions (infringed rights of the press and slow democratization) (2006 Annual Report To Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, October 30, 2006. 265 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/USCC%20Annual%20Report%202006.pdf (accessed: 07.07.2021); 2004 CCEC Report. Congressional-Executive Commission on China, Washington: U.S. Government Printing Office, October 2, 2004. 78 p. URL: <https://www.cecc.gov/sites/chinacommission.house.gov/files/2004%20CECC%20Annual%20Report.PDF> (accessed: 29.05.2021)).

³¹ The Department of State made virtually no statements on Hong Kong. When the Secretary of State Hillary Clinton visited Hong Kong in late July 2011, she noted that, thanks to the OCTS rule, Hong Kong “remains a city that bridges East and West [...] a place where ideas become businesses, where companies compete on the merits, and where economic op-

The U.S. administration remained calm,³² waiting for democratic reforms in Hong Kong and hoping to make the HKSAR an integral part of the liberal world order. Such expectations were bolstered by several steps Beijing took towards liberalizing Hong Kong's political system. In particular, they abandoned the practice of a special election committee appointing members of the Legislative Council, half of which was elected by direct universal suffrage by geographic region, and half by functional electoral constituencies (i.e. by a narrow circle of people representing various professional or special interest groups such as education, tourism, medicine, etc.). The latest step in that direction was the agreement reached in June 2010 by the central government with the Democratic Party of Hong Kong on reforming the Legislative Council, which was intended to implement a limited democratization of this body. The United States welcomed this compromise, which caused some, but not all³³ American scholars, politicians, and diplomats, including then U.S. Ambassador to Hong Kong John Huntsman,³⁴ to hope for similar agreements in the future (Martin 2011: i).

Generally, Washington's policies did not change much between July 1997 and October 2014. Richard C. Bush called U.S.–Hong Kong relations of the time a routine that went largely unnoticed by the media and Congress (Bush 2016: 252), which is only partially true. As we have shown above, influential members of Congress who were on the Joint Commission followed events in Hong Kong closely and generally took an unfavorable view of them. Despite Beijing tightening its control over Hong Kong, the U.S. administration still kept hoping for a gradual democratization of Hong Kong's political system as part of the overall liberal strategy generally promoted by relatively stable U.S.–China relations. The U.S. was building its Hong Kong policy as if it were a

portunity is palpable and real for millions of people" ("Remarks on Principles for Prosperity in the Asia-Pacific," 25.07.2011. URL: <https://2009-2017.state.gov/secretary/20092013clinton/rm/2011/07/169012.htm>. (accessed: 28.07.2021).

U.S. acting consul general in Hong Kong Christopher Marut recommended that the Secretary of State support any reform that would result in Hong Kong achieving the internationally recognized general elections standard (with every citizen gaining the right to vote and be elected) and that would be supported by most Hong Kong citizens. See: U.S. Policy Towards Democratic Reform in Hong Kong. Cable ID no. 09HONGKONG2339_a. 23.12.2009. URL: https://wikileaks.org/pU.S.d/cables/09HONGKONG2339_a.html (accessed: 08.08.2021).

³² Despite U.S. threats, even when Hong Kong's authorities refused to extradite Edward Snowden under the U.S.–Hong Kong Extradition Treaty (in 2013, Snowden was attempting to gain asylum in the HKSAR; in refusing to extradite him, Hong Kong was likely acting under instructions from the central government), there were no major consequences for Hong Kong from Washington.

³³ The 2010 and 2011 Review Commission's reports offered a sceptical assessment of this reform (2010 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, October 29, 2010. 316 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/2010-Report-to-Congress.pdf (accessed: 21.04.2021); Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 9, 2011. 406 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/annual_report_full_11.pdf (accessed: 07.07.2021)).

³⁴ Bork E. Beijing's Heavy Hand In Hong Kong // *Forbes*. 09.08.2009. URL: <https://www.forbes.com/2010/08/09/hong-kong-china-democracy-markets-economy-electoral-reform.html?sh=4dde57746fc3> (accessed: 22.05.2022); Prospects for Democracy in Hong Kong: Assessing China's International Commitments. Roundtable before the Congressional-Executive Commission on China, Washington: U.S. Government Printing Office, July 14, 2010. 31 p. URL: <https://www.cecc.gov/sites/chinacommission.house.gov/files/documents/roundtables/2010/CECC%20Roundtable%20-%20Democracy%20Hong%20Kong%20Assessing%20China%27s%20International%20Commitments%20-%207.14.10.pdf> (accessed: 07.07.2021).

political and economic unit different from China. The United States believed that tying Hong Kong to the American economy prevented the cautious Chinese government led by Hu Jintao from persecuting the local opposition, which enjoyed broad popular support, as the people valued liberal rights and freedom and supported democratic changes.³⁵ In fact, Hong Kong did remain important for China's economy at that time (even if this importance was gradually shrinking), as it afforded access to foreign capital. Any harsh action taken by Beijing and infringing upon the HKSAR's economy could prompt a response from Washington delivering a major blow to Hong Kong's economy and, consequently, to its business elite, and a weaker blow to China's economy.

U.S. Policy During and After the Umbrella Revolution, October 2014–2018

In the autumn of 2014, Hong Kong saw a wave of protests dubbed the Umbrella Revolution. These protests had serious consequences for U.S. policy. Before these protests:

a) on June 10, 2014, the State Council of China published a White Paper on the practice of the OCTS principle (the 2014 White Paper),³⁶ which emphasized that the “one country” element of the OCTS principle is more important than the “two systems” element; proclaimed the central government's universal jurisdiction over Hong Kong as an integral part of China, a part directly controlled by the central government; and enshrined the latter's right to oversee the exercising by the Hong Kong government of its rights as an autonomy,³⁷ and prevent foreign forces from interfering with the HKSAR's affairs, which are, by extension, China's domestic affairs;

b) the decision of the NPC's Standing Committee of August 31, 2014 on electoral reform for holding general elections of the chief executive of the HKSAR in 2017 provided the candidates are nominated by a special committee loyal to Beijing (thus preventing nominations of candidates who would be unacceptable for the central government) and the possibility of holding elections to the Legislative Council after the general elections of the chief executive of the HKSAR.

The decision of the NPC's Standing Committee outraged Hong Kong's pro-democratic forces and spurred peaceful protests: streets in three business and commercial neighbourhoods were taken over. The events surrounding the electoral reform

³⁵ Public opinion surveys showed that most Hong Kong citizens supported the plan to immediately introduce the practice of electing the chief executive of the HKSAR and the entire Legislative Council by universal suffrage. See: New Survey on Political Reform. Public Opinion Programme of the University of Hong Kong. Press Release, June 10 2007. URL: <https://www.hkpop.hku.hk/english/release/release470.html>; Twelfth Public Opinion Survey on Political Reform. Public Opinion Programme of the University of Hong Kong. URL: https://www.hkpop.hku.hk/english/features/political_reform/prop/index12.html (accessed: 01.06.2021).

³⁶ White Paper: The Practice of the 'One Country, Two Systems' Policy in the Hong Kong Special Administrative Region. Information Office of the State Council of the People's Republic of China. June 10, 2014, Beijing. URL: http://english.gov.cn/archive/white_paper/2014/08/23/content_281474982986578.htm (accessed: 18.06.2022).

³⁷ The White Paper confirms the central government's commitment to introducing general elections for the head of the HKSAR administration and the entire Legislative Council, which would serve to promote China's development, security, and sovereignty (Chap. V, pt. 4, para. 3).

strengthened U.S. interest in promoting democracy in Hong Kong via congressional funding for American NGOs (Li 2016: 27–29). The United States supported the main demand of the protesters: the speedy introduction of general elections of the chief executive of the HKSAR and members of the Legislative Council, with candidates nominated by public initiative groups and not having to be approved by special committees. American politicians and diplomats visited the sites of riots, talked to the rioters (mostly young people, school and university students) and members of pro-democratic groups. These actions outraged Beijing, which, like pro-Beijing politicians in Hong Kong, accused Washington of interfering in the protests, instigating and funding them in order to implement a “color revolution.” There was no conclusive proof for these accusations.

Even though the Umbrella Revolution failed, it had a major effect on the political situation and sentiments in Hong Kong, and Washington would take advantage of it further down the road.

First, the protests split Hong Kong society into two irreconcilable camps: the “blue” (pro-Beijing) camp and the “yellow” (anti-Beijing) camp.

Second, a large number of young people came to believe that: (a) peaceful protest cannot produce democratic changes, and therefore violence is admissible, and the first consequence of this conviction was the riots during the 2016 Lunar New Year celebrations spearheaded by separatists who allegedly protected Hong Kong peddlers from the sanitary authorities and the police; (b) as long as Hong Kong remains part of China, the latter will not permit any form of western democracy. Consequently, some of the Hong Kong youth demanded that Hong Kong exercise its right to self-determination via a popular referendum that would offer a choice between several options: keeping the status quo beyond 2047; abandoning the autonomy and transforming Hong Kong into a “regular” Chinese city; or complete independence. Many localist and separatist groups sprang up, and though small, they were active and popular among the Hong Kong youth.

Third, the traditional moderate pro-democratic forces started losing their influence and popularity to localists and separatists; moderate democrats were becoming radicalized as they began to reject dialogue with central government. Many localists, separatists, and moderate pro-democrats viewed the United States, the United Kingdom, and other western states as their natural allies in the fight for democratic and liberal values,³⁸ allies capable not only of deterring the Chinese government’s attempts to

³⁸ The reports of the Review Commission and the Department of State noted that the people of Hong Kong and the United States shared many values, including respect for the rule of law (United States–Hong Kong Policy Act Report, April 1, 2000. URL: https://1997-2001.state.gov/regions/eap/000401_us-hk_pol_act_rpt.html (accessed: 21.04.2021); United States–Hong Kong Policy Act Report, April 1, 2005. URL: <https://2001-2009.state.gov/p/eap/rls/rpt/44543.htm> (accessed: 20.04.2021); 2014 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 20, 2014. 599 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/Complete%20Report.PDF (accessed: 07.07.2021); United States–Hong Kong Policy Act Report, May 29, 2015. URL: <https://2009-2017.state.gov/p/eap/rls/reports/2015/240585.htm> (accessed: 03.05.2021)).

infringe upon Hong Kong's autonomy and the rights and freedoms of its citizens, but also capable of putting pressure on Beijing, prompting it to speedily implement democratic reforms and establish a political system based on western values. The American authorities, in turn, described nonviolent defence of the ideas of Hong Kong's self-determination and independence as a manifestation of the freedom of speech and opinion,³⁹ and used this as grounds to support the opposition. The opposition's leaders visited the United States and met with politicians and high-ranking statespersons, including Vice President Biden, with whom they met before the NPC's Standing Committee made its decision on August 31, 2014. In Hong Kong itself, there were meetings with members of official and semi-official American delegations, and with staffers of the U.S. Consulate General,⁴⁰ which shows stable ties between the Hong Kong opposition and U.S. political circles. The extensive ties of the anti-Beijing opposition with American partners displeased Beijing, which viewed the cultivation of these ties as U.S. interference in China's domestic affairs, denigration of China, and lobbying Washington's hard-line approach to China. In rare cases, such ties benefited Beijing.⁴¹

The 2014 White Paper mentioned multiple misconceptions concerning the principles of developing Hong Kong's political structure along western democratic lines, which arose out of the pan-democrats ignoring the essence of China's state system as a unitary state with the central authorities having complete jurisdiction over all the administrative units, including Hong Kong. In view of historical circumstances, Hong Kong was granted the right to retain its capitalist system, but it was obligated to respect China's sovereignty, security, and interests, as well as the fundamental principles of the Chinese state (Chap. V, pt. 1, paras. 1–2). The White Paper emphasized the need to remain vigilant and prevent and repel attempts to interfere in China's domestic affairs undertaken by foreign forces acting in concert with a very small number of local residents (Conclusion, para. 2), and in implementing the OCTS principle.

39 One example is the Department of State condemning the HKSAR authorities for banning the openly separatist, even if very small, Hong Kong National Party on September 24, 2018. The Department of State viewed this ban as trampling the fundamental values of freedom of speech and association. See: Su Xinqi. China tells foreign critics to respect ban on party // *South China Morning Post*. 25.09.2018. The 2016 report of the Review Commission saw the election of five candidates from localist and separatist parties that sprang up after the 2014 protests as progress towards democratization and as a sign of political involvement of those members of the younger generation who had more radical views than the traditional pan-democrats (2016 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 16, 2016. 553 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/2016%20Annual%20Report%20to%20Congress.pdf (accessed: 07.07.2021)). At the same time, the Review Commission noted that such developments worried Beijing (2017 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 15, 2017. 643 p. URL: https://www.uscc.gov/sites/default/files/2019-09/2017_Annual_Report_to_Congress.pdf (accessed: 07.07.2021)).

40 China and pro-Beijing forces in the HKSAR were distrustful of the appointment of Stephen Young and Christopher Hart, who had previously worked in Taiwan or with countries where “color revolutions” had taken place, to the office of the U.S. Consul General in the HKSAR (Xu 2016: 181–183).

41 In his communications with Bill Clinton, the influential Hong Kong Democrat Lee Chu-Ming (both in his November 14, 1999 letter, when Clinton was President of the U.S., and in a personal communication on May 10, 2001 after Clinton had left the office of the President) called upon him to support China's accession to the World Trade Organization, believing that free trade and economic development would promote China's democratization.

Beijing was particularly displeased with the activities of the Hong Kong entrepreneur and media tycoon Li Zhiying (Jimmy Lai Chee-Ying), an avid critic of China and a confirmed anti-communist with solid ties to the top echelon of the U.S. Republican party.⁴² His personal assistant, U.S. citizen and active member of the Republican Party Mark Simon, who at one time had served in the U.S. naval intelligence, acted as an intermediary in funding operations for Hong Kong's leading opposition parties, including the oldest (and biggest) of them all – the Democratic Party – as well as the Civic Party, and the Occupy Central with Love and Peace movement, whose activists were behind the Umbrella Revolution.⁴³ The Chinese authorities rightly suspected Washington of attempting, through Jimmy Lai Chee-Ying, to influence the political developments in Hong Kong by ramping up anti-Chinese/anti-communist sentiments.

It should be mentioned in this connection that Congress used the funding of the National Endowment for Democracy (NED)⁴⁴ and the National Democratic Institute to fund local and international NGOs, as well as projects to develop democracy and human rights.⁴⁵ According to Mearsheimer, the United States at the time was openly committed to the idea of transforming China into a liberal democracy and “relied on

⁴² Notably, Jimmy Lai Chee-Ying had connections connected with Paul Wolfowitz, a deputy Secretary of Defense in the George W. Bush administration in 2001–2005. Jimmy Lai Chee-Ying and Wolfowitz met in Myanmar at consultations with the Myanmar leadership in 2012 and 2013, and in July 2013, a Hong Kong company affiliated with Jimmy Lai Chee-Ying paid Wolfowitz \$75,000 for services connected with economic projects in Myanmar. Wolfowitz's and Jimmy Lai's contacts with top Myanmar's officials were held at a time when the United States was enforcing very strict sanctions against Myanmar and had essentially prohibited American citizens and legal entities from doing business with the country.

⁴³ Lau S., Lam J. Pan-Democrats Could Face Inquiry over Lai Donations. *South China Morning Post*. 24.07.2014; Kang-chung N., Lam J. Media Mogul Lai 'Spent HK\$3.5m on Occupy vote'. *South China Morning Post*. 04.08.2014; Cheung T., Ng J. Hackers Stole Documents from Copier, Says Lai. *South China Morning Post*. 29.08.2014.

⁴⁴ Editorial note: on July 28, 2015, the National Endowment for Democracy was put on the list of international non-governmental organizations whose activities were deemed undesirable in the Russian Federation (see: <https://minjust.t.gov.ru/ru/documents/7756/>).

The NED 2015 annual report mentioned that the Endowment “supported civic initiatives in Hong Kong to promote democratic reforms” (NED 2015 Annual Report. The National Endowment for Democracy, October 21, 2016. URL: <https://www.ned.org/publications/2015-annual-report/> (accessed: 05.05.2021). The 2014 annual report positively assessed mass protests in Hong Kong, Venezuela, and Ukraine, whose citizens demonstrated “against the authorities who deprive them of their most fundamental freedoms” (NED 2014 Annual Report. The National Endowment for Democracy, October 1, 2016. URL: <https://www.ned.org/publications/2014-annual-report/> (accessed: 05.05.2021). The claim that Hong Kong citizens had been deprived of their most fundamental freedoms is greatly exaggerated. Both in 2014 and today, Hong Kong has preserved and protected certain liberal rights and freedoms.

⁴⁵ The U.S. Appropriations Acts for relevant fiscal years set overall amounts earmarked for the Human Rights and Democracy Fund managed by the Bureau of Democracy, Human Rights, and Labor at the Department of State, as well as to NED, and is intended to support democracy, human rights, and rule of law in China, Hong Kong, and Taiwan: \$12m for FY 2003; \$13.5m for FY 2004; \$19m for FY 2005; \$15m for FY 2008, and \$17m for FY 2009. See: Consolidated Appropriations Resolution, 2003, Public Law No: 108-7: Sec. 526(a),(c),(d); Consolidated Appropriations Act, 2004, Public Law. No: 108-199: Sec. 526(a),(c),(d); Consolidated Appropriations Act, 2005, Public Law. No: 108-447: Sec. 526(a),(c),(d); Consolidated Appropriations Act, 2008, Public Law. No: 110-161: Title III, (Department of State – Democracy Fund) (a)(1); и Omnibus Appropriations Act, 2009, Public Law. No: 111-8: Title III, (Democracy Fund) (b). The amounts allocated for Hong Kong projects were determined by the foundations at their own discretion.

In the 2009–2021 fiscal years, spending on developing democracy in Hong Kong was included in the overall amount on “democratizing” China used by the Democracy Fund, NED, and other organizations to finance specific projects. In 2017–2021, NED issued grants for Hong Kong-related projects for a total amount of \$4.102m; \$1.94m of this amount was spent in 2020. See: National Endowment for Democracy's searchable grants database. URL: <https://www.ned.org/wp-content/themes/ned/search/grant-search.php> (accessed: 22.05.2022).

nongovernmental organizations and various subtle strategies to push Beijing and Moscow toward embracing liberal democracy. In effect, the aim is peaceful regime change” (Mearsheimer 2019: 34). Given the above, China clearly viewed Washington’s support for Hong Kong’s NGOs as a good pretext to interfere in political developments, an interference all the more undesirable as it took place in a region that was not excessively loyal to Beijing in the first place. In May 2022, China’s Ministry of Foreign Affairs published the Fact Sheet on the National Endowment for Democracy, accusing the organization of using issues of human rights and democracy as an instrument for essentially undermining democracy, sowing division and confrontation and interfering in the domestic affairs of other countries, which leads to catastrophic consequences. The document calls NED one of the U.S. government’s principal crusaders for subverting lawful governments and cultivating American puppets.⁴⁶

Washington was mildly critical of the electoral reform that Beijing proposed for Hong Kong in 2014. The Department of State’s 2014 and 2015 human rights reports reiterated clichés about the limited opportunities for Hong Kong residents to change their government via free and fair elections.⁴⁷ The Obama administration, the then Secretary of State John Kerry, and American diplomats advocated speedier democratic reforms, because, as they claimed, the prosperity of Hong Kong and the legitimacy of its chief executive hinged on this. Kerry expounded this vision of reforms at a June 2015 meeting with Politburo member and Director of the Office of the Central Foreign Affairs Commission, Yang Jiechi, and Premier Wang Yang as part of the U.S.–China strategic and economic dialogue. During his Beijing visit to attend the Asia-Pacific Economic Cooperation Summit on November 10–11, 2014, President Barak Obama spoke with great caution about Hong Kong’s protests against the electoral reforms and flatly denied that the United States had any involvement in the events.⁴⁸ Richard C. Bush, non-resident senior fellow at the Brookings Institution, described Washington’s cautious response to the reform as balanced (Bush 2016: 255, 260–261; see also: Summers 2019: 121–122).⁴⁹

⁴⁶ Fact Sheet on the National Endowment for Democracy. Ministry of Foreign Affairs, People’s Republic of China, May 7, 2022. URL: https://www.fmprc.gov.cn/eng/zxxx_662805/202205/t20220507_10683090.html (accessed: 22.05.2022). For more criticism of the use of human rights to interfere in Hong Kong’s affairs, see: Meiguo dui ang huiwu renquan da ang bujih weishan erqie tulao (U.S. Wielding the human rights Baton against Hong Kong is not only Hypocritical but also Futile). Zijing zazhishe (Bauhinia Magazine). September 2020. URL: https://bau.com.hk/article/2020-09/04/content_926251316539387904.html (accessed: 26.05.2022). U.S. politicians and leading media deny such accusations as conspiracy theories.

⁴⁷ Country Reports on Human Rights Practices for 2014: China (includes Tibet, Hong Kong, and Macau) – Hong Kong. 25.06.2015. URL: https://2009-2017.state.gov/j/drl/rls/hrrpt/2014humanrightsreport/index.htm?dynamic_load_id=236436&year=2014#wrapper (accessed: 01.08.2021); Country Reports on Human Rights Practices for 2015: China (includes Tibet, Hong Kong, and Macau) – Hong Kong. April 13, 2016. Available at: https://2009-2017.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dynamic_load_id=252759&year=2015#wrapper (accessed August 1, 2021).

⁴⁸ Mark Landler. Obama Arrives in Beijing, Complex Agenda in Tow. The New York Times. 11.11.2015.

⁴⁹ The Future of Democracy in Hong Kong. Hearing before the Congressional-Executive Commission on China, Washington: U.S. Government Printing Office, November 20, 2014. URL: <https://www.govinfo.gov/content/pkg/CHRG-113hhrg92631/pdf/CHRG-113hhrg92631.pdf>; Bush R. A Path to Democratic Compromise in Hong Kong. The Wall Street Journal. 18.08.2014; Talley I. U.S. Steps Up China Criticism amid Hong Kong Pro-Democracy Protests. The Wall Street Journal. 29.09.2014.

In the meantime, anti-Chinese politicians (in particular, the Republican Senator Marco Rubio, the Democratic Senator Sherrod Brown, and Republican member of the House of Representatives Christopher Smith) publicly called upon the Obama administration to put increased pressure on China in connection with the Hong Kong protests.⁵⁰ Sophie Richardson, the China Director at Human Rights Watch, criticized the restrained response of Obama and the Department of State to the Hong Kong events, considering Victoria Nuland's conduct at the Kyiv Maidan as exemplary.⁵¹

On November 13, 2014, Christopher Smith (supported by five other House members) and Sherrod Brown (along with five other senators) submitted identical bills on human rights and democracy in Hong Kong which provided for the resumption of annual reports on Hong Kong from the Department of State (for ten years starting on March 31, 2015) and annual notification of Congress on whether Hong Kong has sufficient autonomy to continue enjoying U.S. preferences.⁵²

The Department of State criticized the bill and objected to the annual confirmation of Hong Kong's autonomy on the grounds that, under the 1992 Act, determining the degree of Hong Kong's autonomy was a prerogative of the president.⁵³ Although neither the House nor the Senate debated or voted on the bills, it was clear that there were members of Congress who were greatly interested in the U.S. policy on Hong Kong and wanted to act in a more decisive manner than the executive branch. The bills restricted the administration's room for manoeuvre and forced its hand to assume a hard-line approach to Hong Kong (which bore fruit further down the road).

The first report the Department of State submitted to Congress after 2007, dated April 10, 2015, and the subsequent report submitted on May 1, 2016, stated that Hong Kong retained a high degree of autonomy under the OCTS principle, which justifies

⁵⁰ Talley I. U.S. Steps Up China Criticism amid Hong Kong Pro-Democracy Protests. *The Wall Street Journal*. 29.09.2014. Richard C. Bush and Lynn T. White (Princeton University) called upon Congress to abandon their intent to raise the standards for evaluating Hong Kong's autonomy or to strip the territory of its special status since this is the rhetoric China uses in its propaganda to prove that protests are instigated from abroad, which is not conducive to the democratization of Hong Kong (Bush 2016: 273, 274; White 2016: 11).

⁵¹ Evaluating the Impact of the "Umbrella Movement." Hearing before the Subcommittee on East Asian and Pacific Affairs, the Senate Foreign Relations Committee. Washington: U.S. Government Printing Office, December 3, 2014. 27 p. URL: https://www.foreign.senate.gov/imo/media/doc/120314_Transcript_Evaluating%20the%20Impact%20of%20the%20Umbrella%20Movement.pdf (accessed: 07.07.2021).

⁵² H.R.5696 – Hong Kong Human Rights and Democracy Act 113th Congress (2013–2014). URL: <https://www.congress.gov/bill/113th-congress/house-bill/5696/text> (accessed: 22.05.2021).

S.2922 – Hong Kong Human Rights and Democracy Act 113th Congress (2013–2014). URL: <https://www.congress.gov/bill/113th-congress/senate-bill/2922/text> (accessed: 22.05.2021).

At a meeting of the Joint Commission, Richard C. Bush claimed that such a confirmation of Hong Kong's autonomy was implied in the original draft of the 1992 Act (The Future of Democracy in Hong Kong. Hearing before the Congressional-Executive Commission on China, Washington: U.S. Government Printing Office, November 20, 2014. URL: <https://www.govinfo.gov/content/pkg/CHRG-113hhrg92631/pdf/CHRG-113hhrg92631.pdf>).

⁵³ Congressional Action on Hong Kong Set to Roil U.S.–China Relations. *Dui Hua Human Rights Journal*. 15.01.2015. URL: <https://www.duihuahrjournal.org/2015/01/congressional-action-on-hong-kong-set.html> (accessed: 22.05.2021).

the special preferential regime applied to Hong Kong (unlike the rest of China).⁵⁴ This was the first time that the agency had admitted that the electoral reform aligned with the letter of the Basic Law, and at the same time it supported the position of those who oppose the reform, with its claim that the reform contradicts Hong Kong's obligations under the Covenant (the exact nature of the contradiction was not specified).⁵⁵

The Review Commission offered a harsher assessment, noting the trend towards the increased influence of the central government over, and more frequent interventions in, Hong Kong's affairs.⁵⁶ The Commission's report emphasized facts that cast the authorities of Hong Kong and China in a negative light, and glossed over facts that were detrimental to the opposition.⁵⁷ These reports feature dubious accusations of persecuting opposition figures, who in fact had been called to account over their illegal actions, such as organizing unauthorized mass protests or intentionally taking the parliamentary oath in an improper manner.⁵⁸ The electoral reform was described as a violation of Article 45 of the Basic Law on electing the HKSAR's chief executive⁵⁹ (which directly contradicted the conclusions drawn by the Department of State),⁶⁰ as well as of the guarantees of the Joint Declaration on Hong Kong's broad autonomy, and

⁵⁴ United States–Hong Kong Policy Act Report, May 29, 2015. URL: <https://2009-2017.state.gov/p/eap/rls/reports/2015/240585.htm> (accessed: 03.05.2021); United States–Hong Kong Policy Act Report, May 11, 2016. URL: <https://2009-2017.state.gov/p/eap/rls/reports/2016/257085.htm> (accessed: 03.05.2021). The reports of July 7, 2017 and May 29, 2018 indicate that Hong Kong had preserved its autonomy in most areas, which justifies granting it special preferences (Fact Sheet: Review of Key Developments in Hong Kong, as of June 7, 2017. URL: <https://hk.usconsulate.gov/n-2017060701/> (accessed: 03.05.2021); United States–Hong Kong Policy Act Report, April 10, 2018. URL: <https://2017-2021.state.gov/2018-hong-kong-policy-act-report/index.html> (accessed: 03.05.2021)).

⁵⁵ United States–Hong Kong Policy Act Report, May 29, 2015. URL: <https://2009-2017.state.gov/p/eap/rls/reports/2015/240585.htm> (accessed: 03.05.2021).

⁵⁶ References to, and criticisms of these incidents can be found in the Department of State's 2015–2017 reports on human rights, alongside the recognition that the government of the HKSAR generally respects human rights and freedoms. The 2016 report was the first to highlight the central government's infringement on Hong Kong's autonomy as a major human rights concern. See: The Annual Country Reports on Human Rights Practices. URL: <https://2009-2017.state.gov/j/drl/rls/hrrpt/index.htm> and <https://www.state.gov/reports-bureau-of-democracy-human-rights-and-labor/country-reports-on-human-rights-practices/> (accessed: 29.07.2021).

⁵⁷ No reports of the Review Commission or the Department of State mention the huge scandal over Jimmy Lai Chee-Ying's "donations" to pan-democrats, or his close ties with individual Republican politicians (see above).

⁵⁸ 2017 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 15, 2017. 643 p. URL: https://www.uscc.gov/sites/default/files/2019-09/2017_Annual_Report_to_Congress.pdf (accessed: 07.07.2021).

⁵⁹ 2014 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 20, 2014. 599 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/Complete%20Report.PDF (accessed: 07.07.2021).

⁶⁰ The Department of State's conclusion that the electoral reform is compliant with the Basic Law appears justified (United States–Hong Kong Policy Act Report, May 29, 2015. URL: <https://2009-2017.state.gov/p/eap/rls/reports/2015/240585.htm> (accessed: 03.05.2021)). Part 2 of Article 45 of the Basic Law sets as the main goal of electing the HKSAR's chief executive by direct universal suffrage, provided that candidates are nominated by a broadly representative nomination committee in compliance with a democratic procedure. The plan for electing the HKSAR's chief executive proposed by the NPC's Standing Committee in 2014 is fully compliant with these requirements.

The Commission's 2015 report remains critical of the reform, yet admits that Article 45 of the Basic Law on the method of electing the chief executive of the HKSAR is vague (2015 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 18, 2015. 619 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/2015%20Annual%20Report%20to%20Congress.PDF (accessed: 07.07.2021)).

Article 25 of the Covenant guaranteeing the right of citizens to participate in state affairs through regularly elected public officials.⁶¹ The Review Commission's 2017 report was the first to recommend that Congressional committees study possible responses to Beijing breaching its commitments to Hong Kong and to China's "increased intrusions into Hong Kong's autonomy."⁶²

The Umbrella Revolution, which had fizzled-out by this time, and the unsuccessful attempt to implement an electoral reform on Beijing's terms in 2014–2015 gave way to a relative lull over the next four years. Despite generally worsening U.S.–China relations, especially with Donald Trump coming to power in the United States, Washington did not make any major changes to its Hong Kong policy. The United States drew attention to the weakening of the pan-democrats, the greater political activity of young radicals, and the stronger intent of China's central government to entrench its authority in the territory it did not fully control.⁶³

Hong Kong has traditionally had anti-communist sentiments; mistrust of Beijing is combined with tremendous western influence (primarily of the United States and the United Kingdom) on various aspects of its life, and on the political culture of both the opposition and pro-Beijing politicians, entrepreneurs, and statespersons, as many of them had acquired management expertise in the British colonial administration,

⁶¹ 2014 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 20, 2014. 599 p. URL: https://www.uscc.gov/sites/default/files/annual_reports/Complete%20Report.PDF (accessed: 07.07.2021). When the United Kingdom ratified the Covenant on May 26, 1976, it refused to apply to Hong Kong para. (b) of Article 25 of the Covenant that enshrines the right "to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors." The United Kingdom's reservation states that "in relation to Article 25 [...] they must reserve the right not to apply [...] sub-paragraph (b) in so far as it may require the establishment of an elected legislature in Hong Kong." Declarations and Reservations to the International Covenant on Civil and Political Rights. URL: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en. (accessed: 25.05.2021). After the handover of Hong Kong to China, the Covenant has been applied to it with the above reservation. Therefore, it is improper for the Review Commission to cite this provision of the Covenant as grounds for accusing China of violating its international commitments. Moreover, para. 13, pt. III of the Hong Kong Bill of Rights stipulates that Article 21 of the Bill of Rights (equivalent to Article 25 of the Covenant) does not require direct universal suffrage for electing the Legislative Council or the chief executive.

Wikileaks published cables from the U.S. Consul General in Hong Kong to the Secretary of State showing that American diplomats were well aware of this reservation concerning the Covenant and of the stances of the governments of China and HKSAR, which believe this reservation is still in force (and London agrees with it), despite the legally dubious stance of Hong Kong's pan-democrats and the UN Human Rights Committee, which believe the reservation to have gone out of force once part of the Legislative Council was elected by universal suffrage, and, consequently that Hong Kong must comply with the entirety of Article 25 of the Covenant. See: Hong Kong Functional Constituencies: Political Problem, Judicial Remedy? Cable ID no. 09HONGKONG2234_a. 08.12.2009. URL: https://wikileaks.org/plusd/cables/09HONGKONG2234_a.html; U.S. Policy Towards Democratic Reform in Hong Kong. Cable ID no. 09HONGKONG2339_a. 23.12.2009. URL: https://wikileaks.org/plusd/cables/09HONGKONG2339_a.html; Hong Kong Democrats Draw Battle Lines on Universal Suffrage. Cable ID no. 09HONGKONG53_a. 08.01.2009. URL: https://wikileaks.org/plusd/cables/09HONGKONG53_a.html (accessed: 08.08.2021).

⁶² 2017 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 15, 2017. 643 p. URL: https://www.uscc.gov/sites/default/files/2019-09/2017_Annual_Report_to_Congress.pdf (accessed: 07.07.2021).

⁶³ Richard C. Bush believes the Trump administration based its policies of the premise of Hong Kong being part of China, which was detrimental to the interests of Hong Kong (Bush 2020: 352–353).

studied at universities in the United Kingdom, the United States, Australia, and Canada, or gone to Hong Kong schools and universities where teaching was based on the British and American (missionary) standards. Vice President of the Chinese Association of Hong Kong and Macao Studies, Professor Liu Zhaojia (Lau Siu-kai) notes that “the reluctance of Beijing to inculcate patriotism in Hong Kong [in the first 20 years after the handover – N.V.] has ironically provided the anti-China and anti-communist forces an open field to peddle their wares.”⁶⁴ Beijing was aware of Hong Kong’s vulnerability, and as tensions mounted in U.S.–China relations, Beijing was increasingly apprehensive that the United States might use Hong Kong as a weaker link in China’s national security in order to destabilize the situation on the border of Guangdong, one of China’s most economically developed provinces. This is why Beijing accused Washington of instigating and funding protests and unrest demanding democratization. China’s tougher stance on Hong Kong stemmed from: (a) the territory’s decreasing significance as a commercial and financial centre, as other centres in China were developing dynamically and could perform similar functions; and (b) the integration of the Hong Kong economy with the economy of Guangdong province (the “Greater Bay” project). These developments weakened Hong Kong’s ties to the United States – ties that had once been a lever of American influence in the territory. Zhou Bajun, senior research fellow at China Everbright Holdings, rightly noted that “while Hong Kong was increasingly integrated with the Chinese mainland economically, it became more and more aligned with the West ideologically and politically,”⁶⁵ which contributed to the dramatic events of 2019.

U.S. Policy before and after Mass Riots and Unrest in Hong Kong in the Summer–Autumn of 2019

The deterioration in U.S.–China relations caused, among other things, by Donald Trump’s coming to power in the United States and the removal by China of the constitutional limitations on the number of terms its President Xi Jinping could stay in power in March 2018, prompted Washington to toughen its Hong Kong policy. Xi Jinping tightened the central government’s control over the HKSAR. The Department of State’s 2017 Hong Kong report admitted that the degree of Hong Kong’s autonomy was more than sufficient to preserve the preferential regime in U.S.–Hong Kong relations, despite certain steps of the Chinese government that were incompatible with its commitments under the Basic Law.⁶⁶ Nevertheless, Washington looked for any reason

⁶⁴ Siu-kai L. HK’s Chinese Citizens Have Duties Aside from rights. *China Daily*. 13.06.2022. URL: <https://www.chinadailyhk.com/article/275595#HK's-Chinese-citizens-have-duties-aside-from-rights> (accessed: 18.06.2022).

⁶⁵ Bajun Z. HKSAR Should Brace for Challenges by Integrating with the Mainland. *China Daily*. 22.06.2022. URL: <https://www.chinadailyhk.com/article/275596#HKSAR-should-brace-for-challenges-by-integrating-with-the-mainland> (accessed: 18.06.2022).

⁶⁶ United States–Hong Kong Policy Act Report, April 10, 2018. URL: <https://2017-2021.state.gov/2018-hong-kong-policy-act-report/index.html> (accessed: 03.05.2021).

to criticize the situation in Hong Kong and Beijing's policy towards the autonomy. The Department of State's 2017 and 2018 annual reports on human rights in Hong Kong claimed that the greatest threats to human rights lay in the following infringements and actions of the central and local governments:⁶⁷ the persecution of protesters, the stripping of members of the opposition of their MP status; and statements by Hong Kong and Chinese officials that contradict democratic principles of the Basic Law.⁶⁸ The Agency's 2018 report on the HKSAR questioned for the first time the degree of Hong Kong's autonomy. The report noted that the autonomy is sufficient to preserve the preferential status, but it had decreased compared to previous years. This conclusion was based on the prison terms handed down to the separatists who had organized the riots of February 2016, the refusal of the Hong Kong authorities to register localists and separatists as candidates at special elections to the Legislative Council, the September 2018 banning by the Hong Kong authorities of the separatist Hong Kong National Party as a threat to China's national security, and the refusal to extend the working visa of a British journalist working for the *Financial Times* because, in his capacity as vice president of the Foreign Correspondents Club, he had allowed the leader of the National Party to address the club members in August 2018, despite protests from Beijing and its Hong Kong supporters.⁶⁹ The U.S. Department of State, Review Committee, and Joint Committee interpreted these facts as suppressing the freedom of associations, peaceful protests, and freedom of speech.⁷⁰ The United States assumed an openly provocative stance. China has always taken an uncompromising position towards any manifestations of separatism, which has been clearly emphasized in statements made by Chinese leaders, including incumbent President Xi Jinping in

⁶⁷ They repeat the conclusions on human rights from the 2016 report, see note 48.

⁶⁸ Country Reports on Human Rights Practices for 2017: China (includes Tibet, Hong Kong, and Macau) – Hong Kong. April 20, 2018. URL: <https://www.state.gov/reports/2017-country-reports-on-human-rights-practices/china-includes-tibet-hong-kong-and-macau/china-includes-tibet-hong-kong-and-macau-hong-kong/> (accessed: 30.06.2021); Country Reports on Human Rights Practices for 2018: China (includes Tibet, Hong Kong, and Macau) – Hong Kong. 13.03.2019. URL: <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/china-includes-tibet-hong-kong-and-macau-china/china-includes-tibet-hong-kong-and-macau-hong-kong/> (accessed: 30.06.2021).

⁶⁹ A month prior to the report of the Department of State coming out, U.S. Consul General in Hong Kong Kurt Tong said that Hong Kong retains a high degree of autonomy at least in most areas, noting that 2018 saw the "first" regrettable examples of this autonomy being undermined, the list of which coincides with the list of violations in the Department of State's report. See: Kurt Tong's speech to the Kellogg-HKU.S.T. Executive MBA Alumni Association: "Hong Kong's Role in the Indo-Pacific Economy," February 1, 2019. URL: <https://hk.us consulate.gov/sp-2019022701/> (accessed: 15.07.2021).

⁷⁰ 2018 CCEC Report. Congressional-Executive Commission on China, Washington: U.S. Government Printing Office, October 10, 2018. 318 p. URL: <https://www.cecc.gov/sites/chinacommission.house.gov/files/Annual%20Report%202018.pdf> (accessed: 05.06.2021); 2019 CCEC Report. Congressional-Executive Commission on China, Washington: U.S. Government Printing Office, November 18, 2019. 323 p. URL: <https://www.cecc.gov/sites/chinacommission.house.gov/files/CECC%202019%20Annual%20Report.pdf> (accessed: 05.06.2021); Country Reports on Human Rights Practices for 2019: China (includes Tibet, Hong Kong, and Macau) – Hong Kong. 11.03.2020. URL: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/china/hong-kong/> (accessed: 30.07.2021); United States–Hong Kong Policy Act Report, 21 March 2019. URL: <https://2017-2021.state.gov/2019-hong-kong-policy-act-report/index.html> (accessed: 28.05.2021); Cheng K. Ban on Pro-Independence Party "Inconsistent" with Hong Kong's Core Freedoms, Says U.S. Consulate. Hong Kong Free Press. 24.09.2018. URL: <https://hongkongfp.com/2018/09/24/ban-pro-independence-party-inconsistent-hong-kongs-core-freedoms-says-u.s.-consulate/> (accessed: 25.05.2021).

his speech marking the 20th anniversary of Hong Kong's handover: "Any attempt to endanger China's sovereignty and security, challenge the power of the Central Government and the authority of the Basic Law of the HKSAR or use Hong Kong to carry out infiltration and sabotage activities against the mainland is an act that crosses the red line, and is absolutely impermissible."⁷¹

In late 2019, thousands of people took to the streets of Hong Kong to protest amendments to extradition laws and legal aid proposed by the HKSAR government (those amendments would allow for the extradition of suspects to any jurisdiction, including China, which caused concern to many locals and even entrepreneurs loyal to Beijing). These protests rapidly transformed into a movement that demanded democratic reforms and gained American support. The Chinese government accused Washington (and Jimmy Lai Chee-Ying, with his close ties to the U.S. Republican establishment) of financing the protest movement and Hong Kong activist groups calling for sanctions against China. There was no incontrovertible proof of such financing, but it could not be ruled out. High-ranking members of the Trump administration⁷² and eminent members of Congress met with delegations of the Hong Kong opposition (including its radical separatist wing),⁷³ published articles and reports sympathetic to the protest movement (that naturally involved violence),⁷⁴ held public hearings on the

⁷¹ Xi's speech at Meeting Marking HK's 20th Return Anniversary, Inaugural Ceremony Of 5th-Term HKSAR Gov't. China Daily. 01.07.2017. URL: https://www.chinadaily.com.cn/china/hk20threturn/2017-07/01/content_29959860.htm (accessed: 25.05.2021).

⁷² President Trump abstained from comments on the Hong Kong events, confining himself to a remark that the United States should stand with Hong Kong, but he stands with President Xi. See: The Editorial Board. How the U.S. Can Help Hong Kong. Wall Street Journal. 17.06.2017; The Editorial Board. The Hong Kong Stakes for Trump. Wall Street Journal. 14.08.2019; Duehren A., Dou E. House Passes Hong Kong Rights Bill. Wall Street Journal. 21.11.2019.

⁷³ In 2019, Hong Kong opposition members, including Jimmy Lai Chee-Ying, Martin Lee Chu-Ming, and Huang Zhifeng (Joshua Wong Chi-fung), leader of the Demosisto youth party that was in favor of self-determination (the party disbanded on June 30, 2020), repeatedly met with U.S. Vice President Mike Pence, who made harsh statements concerning China, House Speaker Nancy Pelosi, members of Congress, U.S. National Security Council officials, and members of the Review Commission. Hong Kong deputies called upon U.S. authorities and businesses to put pressure on the Hong Kong government to abandon its plans to amend the HKSAR's extradition laws.

⁷⁴ The reports of the Review Commission and the Joint Commission issued on November 14 and 18, 2019, and the Department of State's 2019 report on human rights in Hong Kong described the protests as largely peaceful and also put the blame for the situation squarely on the governments of China and Hong Kong (2019 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, November 14, 2019. 581 p. URL: <https://www.uscc.gov/sites/default/files/2019-11/2019%20Annual%20Report%20to%20Congress.pdf> (accessed: 07.07.2021); 2019 CCEC Report. Congressional-Executive Commission on China, Washington: U.S. Government Printing Office, November 18, 2019. 323 p. URL: <https://www.cecc.gov/sites/chinacommission.house.gov/files/CECC%202019%20Annual%20Report.pdf> (accessed: 05.06.2021); Country Reports on Human Rights Practices for 2019: China (includes Tibet, Hong Kong, and Macau) – Hong Kong. March 11, 2020. URL: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/china/hong-kong/> (accessed: 30.07.2021, see also: 2020 CCEC Report. Congressional-Executive Commission on China, Washington: U.S. Government Printing Office, December 2020. 364 p. URL: <https://www.cecc.gov/sites/chinacommission.house.gov/files/2020o/o20ANNUALo/o20REPORTo/o20FINAL%202021.pdf> (accessed: 05.06.2021)). Republican Senator Mitch McConnell wrote about Hong Kong citizens being terrorized by the CPC, having demanded that their freedom and autonomy be preserved and that the law enforcement and the military be tried fairly for allegedly arresting, torturing, and killing protesters. See: McConnell M. We Stand With Hong Kong. Wall Street Journal. 20.08.2019.

Hong Kong situation,⁷⁵ visited Hong Kong to meet with members of the opposition,⁷⁶ openly expressed their sympathetic attitude, and sharply criticized the governments of Hong Kong and China for “brutally suppressing peaceful protests.” American politicians wholly relied on information they had received from the opposition (which was frequently dubious, distorted, or even downright false) and inspired protests and riots that were unprecedented and shocking for Hong Kong, thereby instilling in the protesters an illusion that the United States might intervene to protect them from the central government. Ryan Hass, a former official with the Department of State and the National Security Council, warned U.S. politicians and statespersons against raising such expectations with their actions and statements.⁷⁷

Belligerently anti-CPC and anti-China members of Congress, primarily Marco Rubio, Robert Menendez, Ted Cruz, Tom Cotton, Christopher Smith, James McGovern, and Ted Yoho, were the chief instigators of a tighter U.S. policy towards Hong Kong. Rubio gained bipartisan support from seven senators, while Congressman Smith gained bipartisan support in the House, and they simultaneously sponsored identical Hong Kong human rights and democracy bills (which became the Hong Kong Human Rights and Democracy Act, hereinafter the 2019 Act) presented to Congress on September 13, 2019 (the initial stage of the protest movement that had already manifested its violent nature). The anti-Chinese consensus that emerged in the American political establishment ensured that the bill was passed unanimously⁷⁸ in both the House and the Senate in late November 2019, and was subsequently signed into law by the President on November 27.⁷⁹ The 2019 Act mandated tougher control over exports

⁷⁵ Self-appointed envoys of the Hong Kong protesters addressed members of the Joint Committee (that includes ardently anti-Chinese members of Congress) and heaped accusations on the governments of China and Hong Kong. They spoke about unbelievable cruelty of the Hong Kong police (those accusations were frequently based on rumours and unconfirmed information, although members of law enforcement were not blameless in some cases), and unfounded arrests of “children” taking part in “peaceful” protests. They claimed that Hong Kong had essentially lost its autonomy and become a police state, and the United States consequently had to put increased pressure on China. The hearing was streamed live on YouTube. See: Hearing on Hong Kong’s Summer of Discontent and U.S. Policy Responses. Congressional-Executive Commission on China, September, 17 2019. URL: <https://www.youtube.com/watch?v=zQJZTi-XRLs> (accessed: 26.05.2021).

⁷⁶ In October 2019, several senators visited Hong Kong. Ted Cruz was dressed in black (the rioters’ “trademark” color), and at the height of unbridled vandalism, he said that he heard and saw no sign of mass riots and pogroms, and the protesters he had met with had no hand in the violence. See: Lhatoo Y. Cruz Says Lam Canned Meeting out of Fear. *South China Morning Post*. 12.10.2019; Lo A. Ted Cruz is Not Just Clueless but Cynical about Hong Kong. 14.10.2019. Republican Senator Joshua Hawley posed for pictures at the sites of protests.

⁷⁷ Wong E. Hong Kong Protesters Call for U.S. Help. China Sees a Conspiracy. *The New York Times*. 03.11.2019.

⁷⁸ Only one member of the House of Representatives voted against the Act. There were virtually no debates, all the speeches boiled down to scathing criticisms of China for strangling Hong Kong’s autonomy, suppressing its people’s democratic aspirations, and criticizing the HKSAR authorities for dispersing “peaceful” protests (by November 2019, the protests had given way, on the one hand, to riots, pogroms, and the setting of fire to organizations and companies from mainland China or local companies that are sympathetic (or forced to be sympathetic) to China, and, on the other hand, to glorifying the protest movement. See: Congressional Record. Issue: Vol. 165. No. 186. Daily Edition, October 15, 2019. P. S6650–S6660. URL: <https://www.congress.gov/116/crec/2019/11/20/CREC-2019-11-20-pt1-PgH9089.pdf> (accessed: 26.05.2021); Congressional Record. Issue: Vol. 165. No. 185. Daily Edition, November 20, 2019. P. H9089–H9096. URL: <https://www.congress.gov/116/crec/2019/11/19/CREC-2019-11-19-pt1-PgS6650.pdf> (accessed: 26.05.2021).

⁷⁹ Some members of Congress were concerned that Trump would veto the bill, but in that case, Congress would easily override the veto given mass support for the bill at the Capitol. See: Bender M., Deng C. Trump Sees Hong Kong as “Complicating Factor” in Trade. *Wall Street Journal*. 23.11.2019.

of sensitive technologies to Hong Kong, and allowed for sanctions to be imposed on Hong Kong and Chinese officials who, in the opinion of the Secretary of State, violate human rights and freedoms guaranteed in international treaties. Article 3 of the 2019 Act, following the 1992 Act, essentially established the United States as a quasi-guarantor of Hong Kong's autonomy and outlined a version of HKSAR autonomy that would be acceptable for the United States. In particular, the Act proclaimed support for both the democratic aspirations of Hong Kong's citizens to hold general elections for the chief executive of Hong Kong and the Legislative Council by 2020, and for a "truly" democratic procedure for nominating candidates for the office of Hong Kong's chief executive (i.e. by public movements/activist groups) (Article 3(3)-(5)), which is not provided for in either the Joint Declaration or the Basic Law, and which directly contradicts the candidate selection procedure for the office of the chief executive of Hong Kong set forth in the 2014 Decision of the NPC's Standing Committee (see above). The 2019 Act called upon the Chinese government to honor its commitments by allowing Hong Kong citizens to govern their territory autonomously without the central government's unjustified interventions (Article 3(4)). The Act stated the need to attract the attention of the international community to the Chinese government's violations of the rights of the people of Hong Kong under the Covenant and the 1948 Universal Declaration of Human Rights, and also to infringements on the autonomy that was guaranteed under the Joint Declaration and the Basic Law (Article 3(8)). The Act also proclaimed a willingness to coordinate the promotion of democracy and human rights in Hong Kong together with allies, such as Australia, the United Kingdom, Canada, South Korea, and Japan (Article 3(11)). In this way, the United States essentially legally enshrined its intention to support the transformation of Hong Kong into a territory where China's sovereignty is purely nominal, while the territory's self-governance is ensured by international guarantees. Such a vision of Hong Kong's prospects aligned with the views of most members of the local opposition, with the exception of those separatists who demanded that an independent republic be established. This approach was unacceptable for China's central government, which adheres staunchly to the policy of a unitary centralized state and stresses that Hong Kong's autonomy is derived from the will of Beijing, and that Beijing should exercise real, and not merely nominal, control over the territory. Another provocative and challenging matter was the desire of the United States to internationalize the issue of Hong Kong, which China regards exclusively as an internal matter, rejecting the United Kingdom's claims that, as party to the Joint Declaration, it has its own rights and responsibility with respect to Hong Kong after 1997.

The 2019 Act amended the 1992 Act to introduce rules for issuing U.S. visas to those citizens of Hong Kong who are subjected to “politically-motivated arrest, detention, or other adverse government action”⁸⁰ and the requirement that the Secretary of State annually certifies (confirms) to Congress the fact of Hong Kong either preserving or losing its autonomy. The certification as such of Hong Kong losing its autonomy does not require any steps from the executive branch,⁸¹ and the secretary of state can refuse, in the interests of national security, to issue such a certification (submitting appropriate notice to the congressional committees on foreign affairs). The president personally makes decisions on measures related to Hong Kong. Given congressional consensus on punishing the authorities of Hong Kong and China, American legislators are capable of adopting new acts that narrow the president’s room for manoeuvre. Congress has shown its willingness to move in that direction by adopting, simultaneously with the 2019 Act, the PROTECT Hong Kong Act,⁸² mandating that the President suspend the issuing of export licenses for special items and materials destined for the Hong Kong police, which was the only practical retribution step taken by Congress. However paradoxical that sounds, the dramatic events of summer–autumn 2019 did not entail immediate punitive measures from the Trump administration, which was biding its time and unwilling to provoke China at the final stage of trade negotiations. Richard C. Bush justly wrote about the 2019 Act that it is big “on rhetoric and very short on actions that might actually induce PRC restraint” (Bush 2020: 353).

Beijing was predictably concerned by Washington’s unequivocal support for the anti-government/anti-Beijing movement (that frequently made use of British colonial and U.S. flags and the American national anthem, while there were instances of desecration of China’s state symbols) and by the Washington-led coalition of western states putting mounting pressure on China to demand that democratic changes be introduced. Additionally, the once moderate pan-democrats essentially closed ranks

⁸⁰ New Article 206 mandates that American consular services issue visas to Hong Kong residents subjected to politically motivated arrests for taking part in protests after 2014. The wording of the Article changed significantly after it passed through the Senate Committee on Foreign Relations on September 26, 2019 compared to its first version (submitted by Marco Rubio on June 13, 2019), which said that visas may not be refused to a person involved in “nonviolent protest activities” demanding a reform of Hong Kong’s electoral system, respect for internationally recognized human rights, protecting an independent judiciary and the rule of law. The original wording was amended in order to afford protection to persons involved in violent protests under democratic slogans. This is one example of the United States being tolerant of violence perpetrated in Hong Kong against people critical of the protests.

⁸¹ 2020 Annual Report to Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, December, 1 2020. 575 p. URL: https://www.uscc.gov/sites/default/files/2020-12/2020_Annual_Report_to_Congress.pdf (accessed: 07.07.2021); Hong Kong’s Special Status. Issue Brief. U.S.–China Economic and Security Review Commission, May 29, 2020. 4 p. URL: https://www.uscc.gov/sites/default/files/2020-05/Hong_Kong_Special_StatusS..pdf (accessed: 07.07.2021).

⁸² Act to Prohibit the Commercial Export of Covered Munitions Items to the Hong Kong Police Force (Public 14 Law 116-77). URL: <https://www.congress.gov/bill/116th-congress/senate-bill/2710/text> (accessed: 28.05.2021). The Act was to remain in force for a year, but it was repeatedly prolonged. Per the National Defense Authorization Act for Fiscal Year 2023, this Act was prolonged until December 31, 2024 (National Defense Authorization Act for Fiscal Year 2023). URL: <https://www.congress.gov/bill/117th-congress/house-bill/7776/text> (accessed: 27.12.2022).

with the radicals, and not only did they fail to condemn the outrages committed by the latter, but justified them and instead blamed the central and local authorities for the chaos that had engulfed the megalopolis. Moreover, they requested that Washington impose sanctions on China and Hong Kong.⁸³ The most incredible thing was that a huge part (maybe the majority) of Hong Kong's population justified the rioters, as demonstrated by localists and young protest movement activists winning in a landslide the elections to district councils held on November 24, 2019. They won control over 17 out of 18 district councils, defeating both pro-Beijing candidates and moderate pan-democrats. The outcomes of the elections convinced Beijing that installing a democratic system in Hong Kong (the kind of democratic system envisioned by the United States for the territory) would likely lead to a localist or a separatist being elected to the office of Chief Executive of Hong Kong, and that those parties would win the majority (or a significant number) of seats on the Legislative Council, and that was a direct path towards the "Taiwanization" of Hong Kong. Getting ahead of the timeline, let us note that these worries were confirmed at the primaries held on July 11–12, 2020 among most opposition parties and groups in Hong Kong to determine the most popular candidates to run in the Legislative Council elections slated for September 2020. It turned out that over half of the seats in the HKSAR parliament might go to localists who were hostile to China/CPC and saw the United States as their main defender.⁸⁴

Beijing could not put up with such a threat to its national security. In response to the events of 2019, the NPC's Standing Committee adopted the Hong Kong National Security Law (NSL) on June 30, 2020. The document was based on the preceding decision of the Committee adopted on May 22, 2020 that set down the basic parameters of the NSL. The Standing Committee had been charged with developing a detailed version of the Law.

The Department of State's response was reflected in a report stating that since the central government had "imposed" the national security legislation on Hong Kong, the latter cannot be granted the preferential regime in bilateral relations.⁸⁵ Congress

⁸³ In September 2019, members of Hong Kong's Legislative Council from the Civic Party Go Rongkeng (Dennis Kwok Wing-hang) and Yang Youqiao (Alvin Yeung Ngok-kiu) wrote an open letter to American senators calling for sanctions against Chinese and Hong Kong officials. See: Heng C. Who Are Hong Kong's Four Ousted Legco Members, and What Exactly Did They Do? *South China Morning Post*. 11.11.2020. Similar appeals became a standard action by the protesters and their representatives. See, for instance: Cherney M. Hong Kong Protesters Call For U.S. Backing. *Wall Street Journal*. 15.10.2019; Wong E. Hong Kong Protesters Call for U.S. Help. *China Sees a Conspiracy*. *New York Times*. 05.11.2019.

⁸⁴ On July 31, 2020, Hong Kong's Chief Executive adopted the decision to postpone the elections owing to the coronavirus pandemic (formal grounds) for at least a year. The elections were held on December 19, 2021.

⁸⁵ United States–Hong Kong Policy Act Report, 20 May 2020. URL: <https://2017-2021.state.gov/2020-hong-kong-policy-act-report/index.html> (accessed: 28.05.2021). The Department of State's 2020 and 2021 reports on human rights in Hong Kong ranked the NSL as a major human rights problem alongside such issues as police action (arrests, politically motivated persecutions), restricted freedom of speech, press, and the internet, interference with the freedom of association, and citizens' inability to change their government through fair and honest elections. In the spirit of Pompeo's anti-communist statements (see below), the Department of State concludes in its report: "the Chinese Communist Party has systematically dismantled Hong Kong's political freedoms and autonomy in violation of its international commitments" (Country Reports on Human Rights Practices for 2020: China (includes Tibet, Hong Kong, and Macau) – Hong Kong. 30.03.2021. URL: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/china/hong-kong/> (accessed: 30.07.2021); Country Reports on Human Rights Practices for 2021: China (includes Tibet, Hong Kong, and Macau) – Hong Kong. 12.04.2022. URL: <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/china/hong-kong/> (accessed: 24.05.2022)).

responded to the decision of the NPC's Standing Committee even quicker: on May 21, 2020, Republican Senator Patrick Toomey submitted the Hong Kong Autonomy Bill, which was passed unanimously with minor amendments by both chambers and signed into law by President Trump on July 14 (hereinafter the Autonomy Act).⁸⁶ This document detailed the mechanism for imposing sanctions on persons who, in the opinion of the Department of State (mandated to hold consultations with the Department of the Treasury), assisted the Chinese government in violating its commitments under the Joint Declaration and the Basic Law, and foreign (non-U.S.) financial bodies that deliberately carried out large transactions with persons subjected to sanctions based on the Autonomy Act.

Particularly interesting is the long list of findings revealing what the U.S. establishment sees as violations of Hong Kong's broad autonomy. Beijing was accused of breaching both the letter and the spirit of the Joint Declaration in the form of the central government tightening control over, and interfering in, Hong Kong's affairs (the interpretation of the Basic Law by the NPC's Standing Committee; banning pro-democratic activists from entering Hong Kong; claims that individual bodies of the central government are not governed by the Basic Law; claims that the NPC's Standing Committee had the monopoly to decide whether Hong Kong's laws align with the Basic Law; claims of the central government's comprehensive jurisdiction over Hong Kong; abductions from Hong Kong of persons who are undesirable to the central authorities; the unwillingness to elect the chief executive and the Legislative Council by direct universal suffrage – Articles 3(9) and 3(12) of the Autonomy Act). The Act also viewed the following as violations: the insistence of the central authorities that Hong Kong adopt a local law on the Chinese national anthem, with legal ramifications for disrespecting it (Article 3(9) (D) of the Autonomy Act);⁸⁷ the introduction of patriotic education (Article 3(11)(A)); the prohibition on discussing Hong Kong's independence at schools, which violates freedom of speech (Article 3(11)(B));⁸⁸ and the introduction of a daily quota for immigrants from China into Hong Kong with a view to "Sinicizing/Sinifying" Hong Kong (Article 3(11)(D)).⁸⁹

⁸⁶ Hong Kong Autonomy Act (Public Law 116–149). URL: <https://www.govinfo.gov/content/pkg/PLAW-116publ149/html/PLAW-116publ149.htm> (accessed: 28.05.2021).

⁸⁷ Hong Kong separatists have often frequently and brazenly demonstrated their disrespect for the Chinese national anthem and flag during Hong Kong's national football team's games. The Department of State's 2017 and 2018 reports on human rights treat China's criminalizing (and mandating that Hong Kong criminalize) offenses against the state anthem and flag as restricting public criticism of the government (Country Reports on Human Rights Practices for 2017: China (includes Tibet, Hong Kong, and Macau) – Hong Kong. 20.04.2018. URL: <https://www.state.gov/reports/2017-country-reports-on-human-rights-practices/china-includes-tibet-hong-kong-and-macau/china-includes-tibet-hong-kong-and-macau-hong-kong/> (accessed: 30.07.2021); Country Reports on Human Rights Practices for 2018: China (includes Tibet, Hong Kong, and Macau) – Hong Kong. 13.03.2019. URL: <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/china-includes-tibet-hong-kong-and-macau-china/china-includes-tibet-hong-kong-and-macau-hong-kong/> (accessed: 30.07.2021)).

⁸⁸ The Department of State's 2018 report on human rights in Hong Kong treats calls to restrict the discussion of Hong Kong's independence as an example of restricting freedom of opinion (Country Reports on Human Rights Practices for 2018: China (includes Tibet, Hong Kong, and Macau) – Hong Kong. 13.03.2019. URL: <https://www.state.gov/reports/2018-country-reports-on-human-rights-practices/china-includes-tibet-hong-kong-and-macau-china/china-includes-tibet-hong-kong-and-macau-hong-kong/> (accessed: 30.07.2021)).

The Autonomy Act essentially criticized China for exercising its sovereignty over Hong Kong, as the Act rejects any actions taken by the central government to educate and cultivate patriotic sentiments and Han (Chinese) identity among Hong Kong residents, particularly in the young generation. The Act stressed the desire of the United States to see Hong Kong as a wholly self-governable territory outside the central government's control, guided by universalist liberal principles and ideals, with its residents doubting their being part of the Chinese ("totalitarian communist") state and the Han (Chinese) ethnicity.

Simultaneously with the signing of the Autonomy Act on July 14, 2020, Donald Trump issued Executive Order 13936,⁹⁰ which indicated that the steps taken by the Chinese government concerning Hong Kong (i.e. introducing the NSL) constitute "an unusual and extraordinary threat [...] to the national security, foreign policy, and economy of the United States." The executive order declared a national emergency with respect to that threat.⁹¹ Pursuant to the national emergency, the executive order suspended Article 201(a) of the 1992 Act with respect to several U.S. acts that granted Hong Kong special status. In particular, Hong Kong passport holders were no longer granted preferences in the issuance of U.S. visas (compared to holders of Chinese passports), non-license exports of sensitive technologies to Hong Kong were stopped,⁹² and the U.S.–Hong Kong agreements on extradition and transfer of prisoners were suspended. The order also defined the procedure for imposing sanctions on persons

⁸⁹ Chinese citizens need a special permit to visit Hong Kong, while citizens of the United States and many other states do not require a visa.

⁹⁰ Executive Order 13936, 14 July 2020. URL: <https://www.federalregister.gov/documents/2020/07/17/2020-15646/the-presidents-executive-order-on-hong-kong-normalization> (accessed: 26.05.2021).

⁹¹ Per the U.S. National Emergencies Act, an emergency introduced by an executive order automatically ends one year after its introduction, unless within 90 days prior to that date the President submits to Congress and publishes in the Federal Register a notice on extending the state of emergency. On July 7, 2021, President Biden notified Congress that the emergency in respect to Hong Kong was to be extended. See: Letter to the Speaker of the House of Representatives and the President of the Senate on the Continuation of the National Emergency with Respect to Hong Kong. 07.07.2021. URL: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/07/letter-to-the-speaker-of-the-house-of-representatives-and-the-president-of-the-senate-on-the-continuation-of-the-national-emergency-with-respect-to-hong-kong/>; Continuation of the National Emergency With Respect to Hong Kong. 07.07.2021. URL: <https://www.federalregister.gov/documents/2021/07/09/2021-14806/continuation-of-the-national-emergency-with-respect-to-hong-kong> (accessed: 10.07.2021). On July 11, 2022, Biden once again prolonged the national emergency with respect to Hong Kong. See: Notice on the Continuation of the National Emergency with Respect to Hong Kong. 11.07.2022. URL: <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/07/11/notice-on-the-continuation-of-the-national-emergency-with-respect-to-hong-kong-2/> (accessed: 13.07.2022). Given China's unwavering policy on Hong Kong, which is aimed at bolstering its sovereignty over the special administrative region, the United States can be expected to routinely continue the national emergency for many decades to come.

⁹² The 2018 and 2019 reports by the Department of State and the Joint Commission expressed concern that sensitive technologies exported to Hong Kong from the United States were being forwarded [to China] despite being monitored by a U.S. Department of Commerce representative in Hong Kong. These concerns were not entirely groundless. The Hong Kong Customs and Excise Department's reports for 2009–2021 record 2940 completed investigations and 617 persons charged with violating the exports control regime. Most frequently, these violations consisted in illegally transferring integration chips and cryptographic technologies to third persons. See: https://www.customs.gov.hk/en/publication_press/publication/departamental_reviews/index.html (accessed: 23.12.2022). On June 30, 2020, before the Autonomy Act was adopted and Executive Order 13936 issued, the Bureau of Industry and Security at the U.S. Department of Commerce suspended license exceptions for exports of sensitive technologies to Hong Kong. See: Suspension of License Exceptions for Exports and Reexports to Hong Kong. URL: [federalregister.gov/d/2020-16278](https://www.federalregister.gov/d/2020-16278) (accessed: 25.06.2022).

(the list to be determined jointly by the Department of State and the Department of the Treasury) involved in the development, adoption, and application of the NSL, or who have undermined Hong Kong's democratic trends, institutions, or autonomy, suppressed freedom of speech, committed major violations of internationally recognized human rights, etc. One economic step that was unpleasant for Hong Kong was the decision of the U.S. Customs and Border Protection to label Hong Kong goods as made in China⁹³ (which may violate the WTO's rules concerning origins of commodities⁹⁴). However, the tariffs applied to Hong Kong goods were the same as before, and not the high tariffs applied to China-made goods pursuant to the decision of the Trump administration. The Executive Order of August 7, 2020 imposed sanctions on 11 Chinese and Hong Kong officials,⁹⁵ including the then Chief Executive of the HK-SAR Lin-Zheng Yuee (Carrie Lam Cheng Yuet-ngor) and Security Minister Li Jiachao (John Lee Ka-chiu), who would go on to serve as chief executive of Hong Kong starting on July 1, 2022. In October 2020, the Department of State published a list of persons it deemed culpable of violating China's commitments under the Joint Declaration and the Basic Law.⁹⁶ Nevertheless, these steps did not cause significant damage to Hong Kong and its economy.⁹⁷

⁹³ Country of Origin Marking of Products of Hong Kong. U.S. Customs and Border Protection, Department of Homeland Security, August 11, 2020. URL: federalregister.gov/d/2020-17599; Zhang Z. Hong Kong's U.S.-Bound Exports to be Labeled "Made in China": What Does it Mean? China Briefing. 25.08.2020. URL: <https://www.china-briefing.com/news/hong-kongs-u.s.-bound-exports-to-be-labeled-made-in-china-what-does-it-mean/> (accessed: 25.06.2022).

⁹⁴ As a special customs territory, Hong Kong is a WTO member in its own right. In December 2022, Hong Kong's government successfully applied to the WTO dispute settlement body to have the decision of the U.S. Customs and Border Protection on goods labelling annulled, even though the U.S. adamantly refuses to abide by this ruling. See: Wong N., Yu C., Cheng L. U.S. Urged to Abide by WTO Ruling on Label for City Goods. South China Morning Post. 23.12.2022.

⁹⁵ Treasury Sanctions Individuals for Undermining Hong Kong's Autonomy. Press Release of the Department of the Treasury, August 7, 2020. URL: <https://home.treasury.gov/news/press-releases/sm1088> (accessed: 05.06.2021). On March 17, 2021, the United States imposed sanctions on 24 high-ranking officials in Hong Kong and China, including 14 deputy chairmen of the NPC's Standing Committee. See: Assault on Democracy in Hong Kong. Press Statement of Antony Blinken, March 17, 2021. URL: <https://hk.usconsulate.gov/n-2021031701/> (accessed: 01.06.2021). On June 16, 2021, the United States imposed sanctions on seven deputy heads of the Liaison Office of the Central Government in Hong Kong. On December 20, 2021, sanctions were imposed on another five deputy heads of the Liaison Office.

⁹⁶ Identification of Foreign Persons Involved in the Erosion of the Obligations of China Under the Joint Declaration or the Basic Law. Report of the U.S. State Department Bureau of East Asian and Pacific Affairs, October 14, 2020. URL: <https://www.state.gov/identification-of-foreign-persons-involved-in-the-erosion-of-the-obligations-of-china-under-the-joint-declaration-or-the-basic-law/> (accessed: 05.06.2021).

⁹⁷ Despite the special regime that had been in effect for Hong Kong prior to July 14, 2020, the United States in some instances did not distinguish between Hong Kong and Chinese investors/entrepreneurs, suspecting the former of close ties with the Chinese government or the PLA, and of acting on their orders. On those grounds, the United States has been exerting constant pressure on other states to make them reject possible major investment from Hong Kong businesses. For instance, a scandal flared up in 1996–1997 regarding the decision of Panama's government to grant a 25-year concession of two Panama Canal ports to Hutchison International Port Holdings owned by Li Ka-shing, one of Hong Kong's wealthiest businessmen who had close ties with Chinese President Jiang Zemin. Many members of Congress tried unsuccessfully to dispute the legality of the tender to manage the ports, mentioned the danger of China blocking the Panama Canal, and noted the ties between the Hong Kong company and the Chinese government and China's state shipping company. They ignored the Clinton administration's arguments that the Hong Kong company was not a threat to the canal's successful functioning. Ultimately, Hutchison was granted the concessions. In May 2020, the U.S. government, with active support from Secretary of State Mike Pompeo, convinced Israel to reject Hutchison's bid to build and manage a desalination plant.

The Autonomy Act mandates that the U.S. Department of the Treasury compile a list of financial organizations that conduct major transactions with persons under sanctions. The Department of the Treasury's report to Congress of December 11, 2020 states that no financial institutions conducting major transactions with such persons had been identified.⁹⁸ Despite pressure from several Congress members, primarily Ted Yoho, the Trump and Biden administrations were in no hurry to compile such a list, as it could include China's largest banks and further aggravate U.S.–China relations. Former U.S. Consul General in Hong Kong Kurt Tong believes that imposing sanctions on China's state-owned bank under the Autonomy Act could “trigger significant instability in the international payments system, by interrupting the huge volume of financial transactions between the world's two largest economies. That would in turn harm U.S. financial markets” (Tong 2021).

It is important to emphasize that the Executive Order did not abolish all the privileges accorded to Hong Kong under the 1992 Act and did not suspend all the bilateral U.S.–Hong Kong agreements. For instance, agreements on legal aid, civil aviation, and financial services regulations remain in force. Therefore, the United States' response to China restricting Hong Kong's autonomy were largely symbolic and demonstrative. This gave Kurt Campbell, the U.S. National Security Council Coordinator for the Indo-Pacific, grounds to claim that China had “got away with its crackdown on Hong Kong scot-free.”⁹⁹ Ellen Bork, President of the U.S. non-governmental Committee for Freedom in Hong Kong Foundation and former Department of State staffer,¹⁰⁰ and Eurasia Group analyst Allison Sherlock rightly admitted that the United States had failed to find effective leverage to make China change its Hong Kong policies, while sanctions are only imposed on individual persons.¹⁰¹ Even if the United States were to follow the recommendations contained in the Atlantic Council's *Hong Kong's Future on Edge* report on restoring democracy in Hong Kong as a condition of normalizing the U.S.–China relations,¹⁰² this will not shake the Chinese government in its intent to consolidate its control over Hong Kong.

Despite the thunderous accusations, Washington remains cautious when it comes to taking steps against Hong Kong, preferring instead to partially withdraw its preferences. The likelihood of large-scale economic and financial sanctions against Hong Kong will closely correlate with the overall state of U.S.–China relations, and with

⁹⁸ Report Pursuant to Section 5(b) of the Hong Kong Autonomy Act. The Department of the Treasury December 11, 2020. URL: https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20201211_33 (accessed: 15.06.2021).

⁹⁹ See: Fang Alex. Taiwan Conflict Would “Trash” World Economy: Kurt Campbell. Nikkei Asia. 05.05.2021. URL: <https://asia.nikkei.com/Politics/International-relations/U.S.-China-tensions/Taiwan-conflict-would-trash-world-economy-Kurt-Campbell> (accessed: 05.06.2021).

¹⁰⁰ Ellen Bork had also worked as Martin Lee Chu-Ming's assistant.

¹⁰¹ Yong C. Limits to U.S. Options over Hong Kong. The Straits Times. 05.07.2021. See also: (Tong 2021).

¹⁰² Jain A., Kesselbrenner J., Mattis P. Hong Kong's Future on Edge: Countering China's National Security Law. Atlantic Council. 29.06.2021. 15 p. URL: <https://www.atlanticcouncil.org/in-depth-research-reports/report/hong-kongs-future-on-edge-countering-chinas-national-security-law/> (accessed: 05.07.2021). Editorial note: on July 29, 2019, the Atlantic Council was put on the list of international non-governmental organizations whose activities were deemed undesirable in the Russian Federation (see: <https://minjust.t.gov.ru/ru/documents/7756/>).

China's Hong Kong policies. The United States is unlikely to introduce severe sanctions against Hong Kong's financial system, since such a step is fraught with negative consequences for U.S. businesses working and investing in Hong Kong and China, and for the international financial system as a whole. Sanctions against Hong Kong and Chinese officials, restrictions on Hong Kong business investments in strategic U.S. projects, and behind-the-scenes pressure on allies with a view to preventing Hong Kong from investing in sensitive projects will remain the principal American weapon.

Another means of punishing Hong Kong is the smear campaign against its investment climate, launched with reference to the NSL and other similar steps taken by Beijing, which is aimed at reducing the presence of American businesses in Hong Kong and making Hong Kong less attractive as a financial and commercial centre that is crucial for China. As part of this campaign, the Department of State, Department of the Treasury, Department of Commerce, and Department of Homeland Security issued a joint information bulletin on July 16, 2021 for the U.S. business community listing the risks of doing business in Hong Kong that have emerged as a result of the actions of the governments of China and Hong Kong.¹⁰³ The 2021 report on the Hong Kong investment climate by the Bureau of Economic and Business Affairs at the U.S. Department of State assessed the investment climate positively, although it too repeated the negative messages from the bulletin.¹⁰⁴ While neither publication caused panic among U.S. entrepreneurs, they may give rise to subsequent warnings and covertly apply pressure on businesses to induce them to roll back their activities in Hong Kong and migrate to U.S.-friendly jurisdictions such as Singapore, South Korea, Taiwan, and Japan. China seeks to parry such blows with statements from its leaders assuring that Hong Kong retains its role as China's leading financial and commercial center and an efficiently functioning independent judiciary.¹⁰⁵

The NSL marked a turning point in the U.S. policy towards Hong Kong. The NSL was followed by central and local electoral laws adopted in 2021 laying down Hong Kong's new constitutional foundations (a democracy with unique China–Hong Kong features) intended to guard Hong Kong's political system from foreign influence. The 2021 White Paper says that the central government has the final say on the democracy system in Hong Kong (which is a matter of national sovereignty and security) (chapter VI, pt. 3), and the central government will “take resolute action to prevent and stop external interference in the affairs of Hong Kong. Any activity that jeopardizes China's

¹⁰³ Hong Kong Business Advisory: Risks and Considerations for Businesses Operating in Hong Kong. U.S. Department of State Release, July 16, 2021. URL: https://home.treasury.gov/system/files/126/20210716_hong_kong_advisory.pdf (accessed: 22.07.2021).

¹⁰⁴ 2021 Investment Climate Statements: Hong Kong, 22 July 2021. URL: <https://www.state.gov/reports/2021-investment-climate-statements/hong-kong/> (accessed: 23.07.2021).

¹⁰⁵ Tellingly, speaking at the celebration of the 25th anniversary of Hong Kong's handover to China on July 1, 2022, China's President did not focus on national security, as he had done five years earlier, but rather concentrated on resolving the HKSAR's urgent socioeconomic problems and on the need to preserve its advantage as China's financial and commercial hub and as a jurisdiction that has the common law system.

sovereignty and security, any activity that challenges the right of the central authorities and the authority of the Basic Law, and any infiltration or sabotage directed at the mainland via Hong Kong are in violation of the One Country policy and will not be tolerated” (chapter VI, part 1). It became apparent to Washington that China’s leadership is adamantly resolved to take Hong Kong under its maximum control and, in order to achieve this goal, it is prepared to sacrifice a series of economic advantages afforded by the HKSAR’s special status in U.S. legislation and foreign policy. Therefore, the Department of States’ 2020 report ends with the pessimistic conclusion that the chances of Hong Kong receiving differential treatment under U.S. law in the future are remote.¹⁰⁶ Subsequent reports were not optimistic either. The 2020 report of the Review Commission paints the NSL in semi-apocalyptic hues: the law “brought the territory’s 7.5 million residents under full and direct authoritarian rule within hours” and “fundamentally transformed Hong Kong’s relationship with the United States.” “In recognition of Hong Kong’s changed status, the United States has begun dismantling Hong Kong’s separate treatment in U.S. law.”¹⁰⁷ The NSL marks a point of transition from the liberal paradigm that failed completely with respect to Hong Kong towards a policy built primarily on the realist paradigm.¹⁰⁸ Hong Kong has become indistinguishable from China in the U.S. foreign policy.

When the NSL was adopted, the United States was finally convinced that China was taking action to neutralize and eradicate American influence on political developments in Hong Kong and, to some degree, on its economy, as China is radically reforming governance institutions, closing Hong Kong off to anti-Beijing forces,¹⁰⁹ and rolling back the activities of an opposition that has traditionally been friendly towards

¹⁰⁶ United States–Hong Kong Policy Act Report, May 20, 2020. URL: <https://2017-2021.state.gov/2020-hong-kong-policy-act-report/index.html> (accessed: 28.05.2021).

¹⁰⁷ 2020 Annual Report To Congress. U.S.–China Economic and Security Review Commission, Washington: U.S. Government Printing Office, December 1, 2020. 575 p. URL: https://www.U.S.cc.gov/sites/default/files/2020-12/2020_Annual_Report_to_Congress.pdf (accessed: 07.07.2021).

¹⁰⁸ Xu analyzed the outcomes of the Umbrella Revolution and concluded that the confrontation between the United States and China over Hong Kong is shifting from the liberal grand strategy (that served to disguise a grand imperial strategy) to the logic of searching for a balance of power (Xu 2016: 177, 179–180).

¹⁰⁹ In March 2021, the NPC approved the Hong Kong electoral reform programme and charged its Standing Committee with drafting a decision that would set out the parameters that the HKSAR government should use when adopting local legislation. On March 30, 2021, the Standing Committee adopted the relevant decision, which essentially boiled down to reforming the system for electing the chief executive and the Legislative Council so that the persons elected would be “patriots,” i.e. people loyal to Beijing, and selected by a special committee. This would prevent members of the opposition who are not loyal to the central authorities from assuming important government offices. The Chinese and HKSAR authorities promote this reform as “improving” the electoral system. The electoral reform enshrines de-democratization of Hong Kong’s political system (to be more precise, it enshrines a departure from the western democratic models). Beijing clearly does not see any prospects in democratizing (westernizing) Hong Kong’s political system, while the central government closely associates the post-1997 semi-democratic regime with the ineffective handling of Hong Kong’s most urgent socioeconomic problems and, most unacceptably, with a lack of patriotism, and at the same time with the unobstructed activities of anti-Chinese (pro-Western/pro-American) forces and the inception and development of separatism. The new electoral laws were already in place for the elections to the Legislative Council elections on December 19, 2021, and the election of the Chief Executive on May 8, 2022. Xi Jinping’s July 1, 2022 speech emphasized that Hong Kong being governed by patriots is in line with the general international practice and ensures, that no deviation from this practice will be permitted under any circumstances (See: Cheng L., Wong N. Op. cit.).

the United States and even reveres it. Thus, Washington is losing irreplaceable allies in its fight for democratizing Hong Kong, allies who were subtly (even if unintentionally) fighting for American values and interests, attempting to make Hong Kong an antipode of China, where power could be taken either by people set to engage in a confrontation with Beijing, or by open separatists. Mike Pompeo's speech of July 23, 2020,¹¹⁰ full of invectives against the CPC and calling to fight against its monopoly on power (essentially campaigning for a regime change in China), aligned with the sentiments of the Hong Kong opposition (particularly of localists and separatists) who viewed the CPC as their main enemy.¹¹¹

It is hard to dispute the fact that Hong Kong's autonomy, primarily its political autonomy, has shrunk significantly, and that China's influence on the HKSAR's economy is also increasing. Nevertheless, Hong Kong still retains its autonomy, even if it has been curtailed. The Department of State's 2021 and 2022 reports state that despite encroachments upon Hong Kong's political autonomy, there are still major economic, legal, and commercial differences between the territory and mainland China.¹¹² China's tightening of the screws in Hong Kong delivered a painful blow to political activities in the HKSAR, which had once been relatively free, as well as to the many political organizations and figures who had formed solid ties with U.S. political circles – ties that Washington could use to influence the development of domestic political trends in Hong Kong and relations between the HKSAR and mainland China. Once the NSL was adopted, many members of the Hong Kong opposition, fearful of being accused of conspiring with foreign powers (one of the crimes envisaged in the NSL), ceased their political activities and stopped communicating with U.S. diplomats. The former means of influencing political developments in Hong Kong shrank significantly. Moreover, Hong Kong's increasing economic integration with (or, more precisely, absorption into) the economy of the neighbouring province of Guangdong, which is picking up pace thanks to the "Greater Bay" project, is decreasing American influence on the HKSAR's economy and business elite.¹¹³ Hong Kong thus failed to bring to fruition the

¹¹⁰ Pompeo M. Communist China and the Free World's Future. 23.07.2020. URL: <https://2017-2021.state.gov/communist-china-and-the-free-worlds-future-2/index.html> (accessed: 29.06.2021).

¹¹¹ Moderate pan-democrats have traditionally opposed the CPC's monopoly on power in China and believed that democracy in Hong Kong cannot be stable without instituting a democratic system in mainland China (with support from, among others, Hong Kong democrats and following the example of the democratized Hong Kong). Localists and separatists view China as a foreign state whose citizens should fight their democratic rights, and they see the CPC as an external threat standing in the way of building a democratic society in Hong Kong.

¹¹² United States–Hong Kong Policy Act Report, March 31, 2021. URL: <https://www.state.gov/2021-hong-kong-policy-act-report/> (accessed: 28.05.2021); United States–Hong Kong Policy Act Report, March 31, 2022. URL: <https://www.state.gov/2022-hong-kong-policy-act-report/> (accessed: 24.05.2022).

¹¹³ Recently, Hong Kong's economic system has been undergoing preparations for a "socialist" transformation. Once-powerful Hong Kong entrepreneurs (mostly owners of family-run developer holdings), on whom the Chinese authorities had relied as strategic investors in China's economy since the late 1970s, and who were seen as a buttress in governance and the preservation of Hong Kong's stability after 1997, proved to be unreliable allies in 2014 and 2019, failing to act beyond their business interests in the race for profit amid Hong Kong's super-high real estate prices, thereby undercutting the younger generation's hopes of buying their own homes and ascending the social ladder (China's leaders believe these two factors to be the main reasons behind the unrest in Hong Kong). Beijing encourages loyal private and public

hopes of it becoming a paragon of democratization and a means of putting political and economic pressure on China. Washington has few opportunities left to transform Hong Kong into a hotbed of instability that could spread to the neighbouring Guangdong, one of China's most economically developed provinces and a powerful hi-tech and innovations sector, and other Chinese provinces.¹¹⁴

Despite these trends, Washington seeks, *first*, to keep its influence and standing in the HKSAR, and, *second*, to convince the Hong Kong opposition that the United States is not leaving them high and dry. Tellingly, Congress is willing to increase spending on promoting democracy and supporting freedom of the internet in Hong Kong. In FY 2021, a total of \$3m was earmarked for promoting democracy, including legal aid and other types of support for democratic activists¹¹⁵ and programmes to protect freedom of the internet in Hong Kong. The Consolidated Appropriations Act for FY 2023¹¹⁶ allocated \$5m for the same purposes.

Increased U.S. funding to promote democracy and freedom of the internet in Hong Kong could evidence the desire of the United States to support financially struggling opposition political parties in Hong Kong formed by pan-democrats/localists/separatists who have fled Hong Kong and are engaged in anti-China and anti-communist propaganda and lobbying abroad.¹¹⁷ In particular, they called for boycotting the 2022 Winter Olympics in Beijing, imposing sanctions on Hong Kong and China, ceasing purchases of the securities of Chinese companies, condemning China's policies and politics in Inner Mongolia, Tibet, and the Xinjiang Uyghur Autonomous Region, etc. If the central or local government impose restrictions on internet use in Hong Kong, these activists call for measures to ensure that the people of Hong Kong (primarily

companies from mainland China to expand into Hong Kong, which are gradually taking over and strengthening their position in the economy of the megalopolis. Beijing finds it easier to control such companies and demand that they engage in socially responsible activities.

¹¹⁴ In mainland China, any mass protests in Hong Kong are covered up, or explained as instigated by foreign forces and involving only a small fraction of the territory's non-patriotic residents. The Chinese authorities are concerned that mass protests in Hong Kong may spread to the mainland. See, for instance: Bradsher K. Hong Kong Retreats on "National Education" Plan. The New York Times. 08.09.2012.

¹¹⁵ Consolidated Appropriations Act, 2021, Public Law. No: 116-260: Sec. 7043(f)(3).

¹¹⁶ Consolidated Appropriations Act, 2023: Sec. 7043(f)(3). URL: <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117hr2617eas2.pdf> (accessed: 27.12.2022).

¹¹⁷ Once the NSL served as grounds for arresting many members of the opposition, including Jimmy Lai Chi-Ying and Joshua Wong Chi-Fung, many leading members quit the opposition parties, while some opposition activists emigrated. Many prominent people in the opposition, including Jimmy Lai Chi-Ying, Martin Lee Chu-Ming, and He Junren (Albert Ho Chun-yan), were convicted under other criminal laws, primarily for organizing and participating in the unauthorized protests in 2019 in violation of the Public Order Ordinance. Massive legal expenses in fees to defense lawyers in court proceedings placed the opposition parties in financial dire straits, and some of them (for instance, the extremely influential Civic Party) started to think about disbanding. The Atlantic Council's *Hong Kong's Future on Edge* report notes that Hong Kong activists need financial and organizational support to create clusters outside the HKSAR in order to discuss the issue of Hong Kong's democratization. The report insists that the United States should support civil society groups in Hong Kong and set up safe spaces beyond the HKSAR for the groups to engage in their activities (Jain A., Kesselbrenner J., Mattis P. Hong Kong's Future on Edge: Countering China's National Security Law. Atlantic Council. 29.06.2021. 15 p. URL: <https://www.atlanticcouncil.org/in-depth-research-reports/report/hong-kongs-future-on-edge-countering-chinas-national-security-law/> (accessed: 05.07.2021)).

the younger generation) have access to information and propaganda coming from the West in order to reduce China's influence in the HKSAR, painting this access as a tool (however weak) of geopolitical counteraction to Beijing. Jill Kastner and William Wohlforth write about propaganda and geopolitical strife that "even when subversion achieves less than traditional statecraft would, it can still be attractive. After all, in the competitive environment of great-power rivalry, each state faces incentives to weaken the other. And since great powers dominate international politics, even a small effect on a big target might be worth the effort" (Kastner, Wohlforth 2021: 123).

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This article has considered the U.S. policy towards postcolonial Hong Kong through the lens of two opposite foreign political approaches: 1) promoting democracy and a U.S.-led liberal world order; and 2) realism aimed at counteracting China, the geopolitical rival, and at containing it in both military and economic dimensions (which includes using Hong Kong as part of China for that purpose).

In the 25 years since the establishment of the special administrative region, U.S. policy towards this territory has changed significantly amid the metamorphoses in Hong Kong itself, as well as the changes in the Chinese government's approaches to the autonomy and the state of U.S.–China relations. U.S. policy has gone from legally granting Hong Kong a special (different from China's) status to gradually dismantling this status. Even before Hong Kong was handed over to China, the United States, acting on the initiative of Congress, had unilaterally proclaimed itself an essential guarantor of the Joint Declaration and the Basic Law, setting the following ultimate goals: establishing a model of democracy in the HKSAR that aligns with liberal standards; involving Hong Kong in international treaties and institutions woven into the U.S. liberal world order; inculcating universalist liberal values in the population of Hong Kong to the detriment of the Chinese/Han identity and patriotism; preserving the ideological/worldview separateness of Hong Kong and its residents, setting them apart from mainland China.

The U.S. executive and legislative branches practiced different approaches to the Hong Kong issue, treating the situation in the HKSAR differently, and responding to its development differently as well. The Department of State and the presidential administration were, as a rule, cautious in their statements and were in no rush to criticize and condemn certain landmark events, not to speak of taking repressive steps with respect to China or Hong Kong. Until the NSL was adopted in 2020, the U.S. government held out hope that Hong Kong would retain maximum autonomy and gradually move along the path of liberalization and democratization. Members of Congress and the bodies they established were far more critical of the events taking place in the HKSAR, sometimes making sharply provocative statements, and as early as the 2014 Umbrella Revolution proposed bills in support of democracy in Hong Kong.

The mass protests and ensuing riots in Hong Kong in late 2019 rapidly aligned the stances of the U.S. executive and legislative branches. Donald Trump engaged in severe anti-Chinese rhetoric from the beginning of his presidency as he advocated comprehensive containment of China, i.e. a pivot towards realism in the U.S. policy towards Beijing. That turned Washington's policy towards Chinese Hong Kong upside down, a policy that rested on the premises of liberal hegemony. Congress, represented by its leaders and the most belligerent anti-Chinese hawks, worked with high-ranking members of the Trump administration, including Vice President Mike Pence, to support the anti-government/anti-Chinese uprising in Hong Kong. The governments of China and Hong Kong frequently accused U.S.-funded NGOs of payrolling the anti-government movement in the HKSAR. Beijing interprets these circumstances as an attempt to launch a "color revolution" that would result in the complete westernization of Hong Kong's political system, the alienation of Hong Kong residents (particularly the young generation) from the single Chinese ethnicity, and the transformation of Hong Kong into a territory over which China essentially has no control. Intending to protect national interests and sovereignty over part of its territory, Beijing responded by blankly refusing to make any concessions to the protest and rebel movement, suppressing riots, adopting the NSL, and radically revising the HKSAR's political system. This reaction is explained in the logic of realism: "Nationalism and balance of power politics work to undermine the requisite social engineering in countries targeted for regime change," while "nationalism is almost certain to cause significant resistance [to social engineering]" (Mearsheimer 2019: 17, 30–31).

When the NSL went into force, Washington became convinced that the project of transforming Hong Kong into a full-fledged western democracy was doomed to failure, and it marked a complete transition from liberalism to realism in the U.S. Hong Kong policy. Hong Kong is no longer seen as a political unit separate from China. Instead, it is viewed as a unit under Beijing's total control: this is evidenced by the Department of State's recognition of Hong Kong as a territory with insufficient autonomy from China, the rapid and unanimous passing by Congress of the Autonomy Act, and the signing of the Executive Order on partially withdrawing Hong Kong's special preferences.

Hong Kong's autonomy was significantly curtailed by Beijing in response to the events of 2019, yet it still retains many of the attributes that set it apart from mainland China. While admitting this fact, the United States is aware that it has irrevocably lost its erstwhile influence on the opposition forces in the HKSAR and that its influence on the HKSAR's economy, which has been heavily integrated into China, is also shrinking. The pronounced differences between Hong Kong and the rest of China should be gradually levelled out by political, economic, and social reforms intended to eradicate openly anti-Beijing/anti-communist opposition forces, the establishment by Beijing of complete control over political developments in Hong Kong, the fostering of patriotism in the next generation of Hong Kong citizens, the complete integration of the HKSAR in China's economic system, and the linguistic and cultural assimilation of Hong Kong's residents.

Until U.S.–China relations reach their nadir, the administration, despite pressure from Congress and the shocking invectives of some of its members,¹¹⁸ will, for pragmatic economic reasons, refrain from imposing significant (particularly financial) sanctions on Hong Kong. It will take steps to contain Hong Kong's economic development as part of the overall economic and military containment of China, and sharply criticize the current developments in Hong Kong as communist authoritarianism advancing against democracy. Washington will continue to internationalize the issue of Hong Kong to present American interests and demands as an international consensus, since the United States in its capacity as the hegemon in the hierarchical liberal world order positions itself as the exponent of this consensus. The United States will also continue to impose sanctions on individual Chinese and Hong Kong officials, companies, and entrepreneurs, and it will not abandon its attempts to destabilize the situation in Hong Kong (by, among other means, propaganda and support for the Hong Kong opposition) and discredit Hong Kong's investment climate, thereby undermining the utility of China's territory.

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Conflict of interest:

The author declares the absence of conflicts of interest.

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¹¹⁸ For instance, on June 30, 2021, Scott Perry submitted the Hong Kong Freedom Bill to the House that would deny China's right to Hong Kong and vest the U.S. President the power to recognize Hong Kong as an independent state. H.R.4280 – Hong Kong Freedom Act: 117th Congress (2021–2022). URL: <https://www.congress.gov/bill/117th-congress/house-bill/4280/text?r=76&s=1> (accessed: 09.02.2022). In August 2021, the bill was sent to the Subcommittee on Asia, the Pacific, Central Asia and Non-proliferation of the House Foreign Affairs Committee. There is no information on the future work on the bill.

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