Virtual Event | Can Hong Kong Remain a Global Financial Center?

TRANSCRIPT

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- Nate Sibley, Research Fellow, Hudson Institute

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A video of the event is available: https://www.hudson.org/events/1982-virtual-event-can-hong-kong-remain-a-global-financial-center-72021

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Nate Sibley:

Okay, well, hello. And welcome to this online Hudson Institute event on Hong Kong's future as a global financial center in the face of a draconian crackdown on political and economic freedom by the Chinese Communist Party.

I'm Nate Sibley, a Hudson Research fellow and the head of our Kleptocracy Initiative here at Hudson, which studies how corrupt authoritarian regimes undermine the global rule of law.

Just to very quickly set the scene and some of the facts before I introduce our speaker today, the dismantling of democracy and civil liberties has really escalated quite dramatically in Hong Kong since the imposition of the so-called National Security Law in June, 2020. Hundreds of peaceful pro-democracy activists have now been rounded up by authorities. But the city's business community is also under increasing pressure.

And one of those ensnared is the entrepreneur, Jimmy Lai, who's Apple Daily Newspaper provided an independent, and I understand, much loved, source of news for the city. He was arrested in August, 2020, but he was jailed in December, 2020 after being denied bail, where he remains. All for supposedly organizing illegal protests.

But in May of this year, the crackdown took a new turn when authorities move to freeze Jimmy Lai's financial assets. And these included his shares in Next Digital, which is Apple Daily's parent company. And I think it was the first such action targeting ownership of a Hong Kong publicly traded company.

In June, Apple Daily itself was also targeted by an asset freeze. It's offices were raided by, I think, 500 police officers, and several journalists were arrested, which forced it to completely cease operations a couple of weeks ago.

These measures were all undertaken without anything really that we would recognize as due process, and they sent a really unmistakable message to Hong Kong's business community. Their continue commercial presence in the city is now contingent on compliance with the Chinese Communist Party's political agenda.

In fact, an American Chamber of Commerce survey found that 40 percent of it's members are now considering leaving Hong Kong, and the National Security Law was the most widely cited reason. So, that's enough from me today. We'll be discussing the case of Jimmy Lai and Apple Daily. And whether a city who's famous prosperity is founded on it's reputation for root of law and free information can continue to thrive as a global financial center in the face of this onslaught from Beijing.

Not only against democracy and civil liberties anymore, but apparently, now against private property as well. And joining me to discuss the developments is a distinguished panel of experts and people with first-hand knowledge of the situation.

So firstly, we'll be hearing from Carolyn Bartholomew. She is the chairman of the U.S. China Economic and Security Review Commission for the 2021 report cycle. But she previously served as the commission's chairman for four two-year report cycles, and is vice chairman for six two-year report cycles previously. She's also previously worked at senior levels in the U.S. Congress, including as chief of staff to now speaker, Nancy Pelosi.
Mark Clifford is a prize-winning journalist and author. He is also appearing here today in his capacity as an independent, non-executive director of Next Digital Limited. That’s, as I mentioned, Apple Daily’s parent company where Jimmy Lai also served as chairman until stepping down when he was imprisoned.

While he was in Hong Kong, Mark was publisher and editor in chief of The Standard, and editor and chief of the South China Morning Post, as well as the executive director of the Asia Business Council.

Bill Browder is well known to us here at the Kleptocracy Initiative at Hudson Institute. He is the founder and CEO of Hermitage Capital. He’s also the leader of the global Justice for Sergei Magnitsky Campaign as an extraordinary advocacy effort which has resulted in United States, the EU, the UK, Canada, and others introducing new sanctions programs that allow them to target human rights abusers and corrupt officials.

And then finally, we’ll be hearing from Ellen Bork. She is the president of the newly formed Committee For Freedom in Hong Kong. It’s a new NGO pressing for international consequences for China’s many broken promises, and to uphold rule of law in the city. She has testified in Congress, and written widely in major publications on the Hong Kong situation. Previously, she worked in the U.S. Senate and State Department, and in various think tanks and human rights organizations. Sorry, as well.

So, a very impressive roster today, and many thanks to you all for joining. Carolyn, I wonder if you could perhaps kick us off and sort of set the scene on the background of China/Hong Kong relations, and also their economic relations with the west. Anything else you think we should be aware of at the outset.

Carolyn Bartholomew:

Certainly, thank you very much Nate. Thank you for inviting me to participate today. It is always sad to me that we have to have these discussions about Hong Kong. I would never in my life have predicted that things would have turned out this way. But I guess I was naïve, and now we have to figure out how to handle it.

I’ll start off just by saying that China Commission follows Hong Kong closely, but the views that I’m expressing today are my own. I thought it may be helpful to sort of just start to remind people about why this matters to us.

First, of course, seven million people have now been brought under the boot of the CCP’s authoritarianism. What has happened in Hong Kong in the past year with the passage and implementation of the National Security Law is more evidence that the CCP will not and does not abide by it’s international obligations. Obligations which it negotiated and signed onto in this particular case.

What has happened in the past year is really, the failure of the one country, two system system that was established when Hong Kong reverted back to the mainland. Also, there are over 1,200 American business doing business in Hong Kong. Over 800 of those either have regional offices or headquarters there, and I believe that there might be up to 85,000 Americans who are living in Hong Kong. So, it has relevance to us. It has relevance to our citizens and to our businesses.

I went and I looked again. You mentioned the American Chamber of Hong Kong. I went and I looked again today, and was really struck by what they declare are their values, which are support for free trade, for rule of law, for responsible business, and for the free flow of information. And I would argue that three of those four are either no longer valid, or that they are under threat.
Hong Kong, of course, built it's reputation on rule of law. It became this important intermediary between the mainland and the rest of the world. But that reputation about rule of law was so that, because businesses could count on due process and independent judiciary and transparency. And all of those three things are now declining.

It also depended on freedom of speech, which is gone, freedom of the press, which is gone. And business needs access to unbiased information in real time. So, the free flow of information is really important. It is being choked off. Mark will speak more about Apple Daily and what it's been going through, and what that means.

Access to certain websites have been shut down, or being denied. And I would argue that Hong Kong is slowly but surely being pulled behind the great fire wall. Meaning, of course, that free access to information in real time is starting to become very difficult.

There are also a number of questions about data privacy. Who owns the data, what data can the Chinese government get access to, all of those kinds of questions are really important. I think it's also really important for businesses in particular to get over this idea that what has happened to Apple Daily only happens to other people and other companies that cross a line.

It is, of course, unclear with this National Security Law where the line actually is, where the lines are. It changes sometimes from day to day. I want to remind everybody of the concern that the American business community had about Carrie Lam's ill-fated extradition law effort. At that time, businesses were concerned. Business in Hong Kong were concerned that they could be extradited to the mainland over some sort of commercial dispute.

But the National Security Law that has been passed and implemented is actually much worse. As I mentioned, there are constantly shifting definitions of what national security is. How do you know if you've crossed a line when you don't know where the line is?

I'd also remind people about the situation of the two Michael's, which is another wake-up call. They were of the wrong nationality, in the wrong place, at the wrong time. They're Canadian citizenship couldn't save them.

We're seeing examples where economic coercion is being used against U.S. companies, which are headquartered elsewhere. Not specifically about Hong Kong, though I would argue that what the National Basketball Association went through is certainly an example that people need to learn from. But there's been a lot of economic coercion, for example, against airlines over how they have listed Taiwan, over clothing companies about mottoes that they're putting on tee shirts.

And so, businesses, I think, really have to get over the presumption that what is happening in Hong Kong only happens to other people and other companies, and they're somehow safe from all of it. The implications of Beijing's expansive but ambiguous definition of national security is really something to be thinking about. There are now, a budget of U.S. one billion dollars for 2021 for dedicated police and prosecutorial units in Hong Kong. And there are a number of tactics that Mark will talk more about. But it's important to mention the powers that the National Security Law provided or provides, allow for warrantless searches, asset freezes, and obligations to comply.

The police already have ordered bankers at City Bank and HSBC not to deal in shares of Apple Daily, or they face prison. People should be concerned about exit bans, the ability of people to actually leave
Hong Kong. The National Security Law purports to apply to national security offenses against Hong Kong, no matter where they are alleged to take place. China has been successful at repatriating critics from foreign countries with weak judicial systems, and where Beijing wields influence, including through investment and debt.

And again, this expansive application of national security. All of those are serious concerns that people really need to be thinking about. And I just want to close, actually, with a quote from Ho-Fung Hung, who’s a professor at Johns Hopkins who said, "Once they created this apparatus, the National Security apparatus, it's inevitable that they will keep expanding the activities because it's the logic of bureaucracy. Once you have a bureaucracy, the bureaucracy has to do things to justify it's own existence."

So I'm afraid that we are only going to be seeing circumstances getting worse, and I think it's going to be a real challenge for American business ... other businesses, but American businesses ... that continue to do business in Hong Kong.

Mark can talk more specifically about some of those things.

Nate Sibley:

Sure. Please go ahead Mark, and tell us a bit more about Jimmy Lai, about Next Digital, and the situation with businesses as you see it.

Mark Clifford:

Yeah, well thank you Nate, and thanks to the Hudson Institute for organizing this. Carolyn, that was such a magnificent overview, that I certainly can't add anything to your general points. But let me talk a little bit about what I've seen as a director of Next Digital.

I'm an independent non-executive director, similar caveat to Carolyn's. These are my opinions. But I can tell you what it's like being at the wrong end of a barrel of a gun when the Chinese Communist Party is coming after you.

I've known for some time that the founder of Apple Daily, Jimmy Lai, was in the sights of the Chinese Communist authorities. It's a bad sign when the foreign ministry spokesperson and other senior officials single someone out like Jimmy Lai, as they did starting in 2019 as a black hand, as part of a new gang of four, which is pretty ironic, given the fact the gang of four was the disastrous cultural revolution that is one of the things Jimmy Lai escaped from as a penniless immigrant coming to Hong Kong a few years before that started, during the great famine.

But China's government has had one disaster after another. All it's economic prosperity notwithstanding, but in terms of people's livelihood. So, to criticize someone like Jimmy Lai, who is been fighting for freedom in Hong Kong is extraordinary.

Anyway, Jimmy is their target. And so, they used law, law fare, warfare, to come after Jimmy under the guise of law. So I was going to meet him for breakfast a year and a half ago, a little less than a year and a half ago, February. I get an email when I'm on the way to breakfast, "I'm being arrested."
They were pretty nice to him that time. They let him take his shower. They released him within 48 hours. But the arrests kept coming. Last August, Carolyn alluded to some of the nice newsroom searches we've had since the beginning of the National Security Law. Last August, we had 200 policemen come in, armed uniformed policemen come into the newsroom. First, they took away Jimmy at home. Then they took away the editor in chief and a couple other people. They were released within 48 hours. But these steps just keep escalating. So last month we had 500 armed police come into the newsroom, take away the editor in chief, jimmy was already in jail, take away several other people. Some have been released, some haven't. Our CEO is in jail. Our editor in chief is in jail. Three people who are out are not feeling very good about their prospects for staying out of jail. And even if they were, the legal expense, just the hassle of being tied up. And maybe this is something that Bill will talk about next. I mean, just being enmeshed in a legal system is unbelievable.

And so they've they froze assets. First Jimmy's assets were frozen. He controlled 72% of a publicly traded company. The secretary for security, John Lee, now been promoted to the number two in Hong Kong. Chief secretary just writes a letter. "We think you're guilty of national security law violation. So we're making it impossible for you to get any dividends from your shares, to vote your shares." The effect, and again, Bill's a finance guy, can talk about this, the 28% of the company that's outstanding is all that matters anymore. So somebody could get a very small share and do whatever they want with it.

So Jimmy doesn't have those assets. His overseas bankers, accounts in Singapore were frozen. And the Lai family, Jimmy, his family and the bankers were told that if they touched those accounts, seven years in jail, plus monetary fines. So pretty bad.

Then they come after the company. They decided that the company is a criminal enterprise, freeze assets, freeze bank accounts in three different companies, say that if we use other accounts to try to pay anything, that contaminates those accounts and they're automatically frozen. So we had no choice but to shut down. Oh, and did I mention that the 100 journalists whose hard drives were taken weren't really feeling too good about working for this newspaper anymore either? So in fact, we shut down two days earlier than the board wanted to because people were terrified.

But I have to give it to the staff of Apple Daily. I mean, some didn't stay. There was an arrest during a board meeting of one of our editors. That tends to focus the mind. People literally were running away from the building on rumors that the police were coming. This is the impact that this completely lawless environment run by the state has on people. And again, these are well-educated, prosperous, hardworking people just trying to do their job and just trying to exercise the right to free press. It's enshrined in Hong Kong is many constitutions that was promulgated by the Chinese government.

So people running away, but we still managed to get an edition out. We printed a million copies, a million copies, more than 10 times our normal press run. Sold out in a matter of hours. People, hundreds, thousands of people in fact I saw in live streams, lining up at 3:00 in the morning to get those copies, thousands around the Apple Daily headquarters, cheering the staff on.

So yeah, you can put people in jail. And by the way, we're about to stay tuned. We're going to see some show trials. They've broken some people. They're putting them in psychiatric institutions. They will, I expect to be testifying against them against Jimmy Lai. This is what this isn't just a tough regime. This is a totalitarian regime that is bending and breaking people, using every instrument to try to appear
legal, to try to appear as if people love them when people hate them. I mean, they're hated in Hong Kong and that's where we are right now.

Carolyn Bartholomew:

Mark, can I ask a couple of questions of you? Nate, I hope that's okay. But Mark, can you just talk a little bit about the tactics that they've used against Apple Daily? Things like, you mentioned freezing assets, but what about the fact that with the assets frozen, you're not able to pay your staff and what does that mean? Right? It's a violation of law.

Mark Clifford:

Yeah. Yeah. Thanks Carolyn. I mean, there's so much, it's hard to really be as comprehensive as I should. But yes, because those bank accounts were frozen, we have 600 staff members whom we haven't paid. We haven't been able to pay them their June salaries, let alone their severance payments. We've got the money in the bank. And so, although it's the secretary for security who we've applied to for permission to pay people, but who hasn't granted it, that's making it impossible for us to pay people, we can't pay people. So you've got 600 people are not just out of work. There are a couple of hundred we have been able to pay.

So we're throwing almost 1000 people out of work. We're not able to pay them their monthly salary. As I said, we'd like to pay them severance pay. We'd like to pay them accumulated annual leave. We have the cash. We can't do that. We have an electricity bill we can't pay. We have phone bills we can't pay. We have documented this in excruciating detail to the secretary for security who came back with a big fishing expedition about what various people are doing that have nothing to do with people, our creditors, whether it's our employees or utility companies, the printing company, the people that are selling ink, selling us paper and we owe the money. Right? We can't pay. You just sort of forget about all these little, nitty-gritty details when you're running a business, because you assume you have access to the banking system. That's been shut off.

Carolyn Bartholomew:

And by shutting off your ability to pay salaries, they are going to force you into be violation of a different law.

Mark Clifford:

Yeah, absolutely.

Carolyn Bartholomew:

What about leasing? Isn't there some things going on with leases?

Mark Clifford:

So this gets very granular and technical, but we leased two very large facilities in a government so-called science and technology park. I'm not really sure what scientific or technological about a printing press, but there you have it. There was, I don't know, about 30 square meters, a couple 100 square feet that
was used for a private office for Jimmy Lai. It was I think 3/10ths or 3/100ths of our total space, but they've decided that's a violation of the lease and so they're breaking the lease on this 25 years earlier, which is obviously going to throw us out of our building and mean that we have a lot of costs, both cash and non-cash, and we'll probably have to pay that out to make good to the government because they've thrown us out on a technical violation.

Again, it's the use of lawn administrative procedures to get things done. And I should underscore though, beyond that, under the National Security Law, as you mentioned, Carolyn, you don't need a warrant. There was no warrant when they came in. There was no warrant to seize the bank accounts or anything. It's just guilty until proven innocent. That's the way the National Security Law works. All the promises in the basic law, the mini constitution, thrown out the window. Freedom of speech, freedom of press, trial by jury, right to be assumed innocent until proven guilty, all gone.

Nate Sibley:

Thank you so much, Mark. Bill, does this situation, do you see any parallel with what was happening when you were in Russia back in the 2000s and everything that happened subsequently there? Tell us a bit about that and some of the work you've done to help bring perpetrators of these sorts of abuses, to try and deliver some measure of accountability where we're able to...

Bill Browder:

Thank you, Nate. Thank you, Mark. And thank you, Caroline. And good to see you, Allen. God, what a story. It's like deja vu. So the Jimmy Lai is like the Hong Kong Mikhail Khodorkovsky. The stories are exactly the same. For those of you who don't know Mikhail Khodorkovsky, he was a wealthy Russian businessman. He was opposing Putin and Putin decided that he wanted to get rid of Khodorkovsky and make an example out of him.

And so what did they do? They arrested him. In that case, they alleged tax evasion. Once they arrested him, they went after his companies, Yukos, his oil company. They seized his oil company. They basically liquidated it and then sold it to a friend of Putin's. They went after all of his associates. There's a whole group of people who ended up going to jail in Russia for a long time on trumped up charges of all sorts of different types. They went after their assets in Russia and in the West. Just the same exact story.

And this playbook is not unique to Russia or Hong Kong or China. This is the playbook of kleptocrats. This is the playbook of dictators. The purpose of this is not just to go after Jimmy Lai or to go after Mikhail Khodorkovsky in the Russia case. The purpose of this is to make such an extreme example out of one high profile person, that it just absolutely terrifies everybody else into total compliance. Carolyn, you made an interesting point about, about how people say, "Well, it's got nothing to do with me because I'm not speaking up or I don't have a newspaper or whatever." I heard the same arguments in Russia, so I've also been persecuted by the Putin regime. I was lucky enough to be expelled as opposed to put in prison. My lawyer, Sergei Magnitsky, wasn't lucky enough to be expelled. He was arrested, tortured for 358 days in prison and murdered at the age of 37 in Russian police custody.

But I remember everybody was saying, "Oh, this has nothing to do with me." All the other investors saying, "Russia's still a good place to invest. You just have to separate business from politics." And it didn't work out that way for anybody. In fact, literally every single person has ended up getting hijacked
one way or another by the Russian regime. And I remember specifically, there was this one guy in Russia. I ran the largest public equity fund and a guy named Mike Calvey ran the largest private equity fund. And he liked to distinguish himself by saying, "I'm not like Bill Browder. I'm not rocking the boat. I'm not criticizing the regime. I'm working with the regime. I have regime people working on the board of directors of my fund. I know how to talk to these people. I'm not doing any of that stuff."

And for awhile, he was riding high and doing fine. Then on, I think it was February two years ago, he was arrested and all of his employees were arrested. So even though even the people that are supposed to be the friends of the regime get arrested. And so if he question is, "Well, what does this mean for Hong Kong," it means that anyone who hasn't been arrested, happened to have their assets seized should get the hell out of there as quickly as possible because nothing good is going to happen. Nothing good is going to happen in Hong Kong. It's all going to be going down this very slippery slope. There's no such thing as business and politics being separate. Business is politics, politics is business.Anyone with power is powerful. Anyone with power can use that to make money. It's all intertwined.

So what do we do about this in the west? Well, we have this piece of legislation, which is called the Magnitsky Act. It's named after Sergei Magnitsky, my lawyer who I just mentioned to you was murdered. And the Magnitsky Act freezes the assets and bans the visas of human rights violators and kleptocrats. And the Magnitsky Act really upsets people who have been sanctioned and it upsets totalitarian regimes. And the reason it does is because it's the one thing that they can't control. So if somebody like Carrie Lam is doing all this terrible stuff in Hong Kong, she can be guaranteed that no legal action is going to be taken against her in Hong Kong. But all of a sudden, she gets added to the US Magnitsky list, which she did get added to. All of her bank accounts are frozen. Just like they froze Jimmy Lai's bank accounts, Carrie Lam's bank accounts were frozen. She cannot have a bank. Whatever she had at HSBC, she can't access because if HSBC does any transactions for her, HSBC will be fined by the US Treasury OFAC for three times the amount of money that they were doing business with her.

And so, this is a way to get back. And guess what? The Chinese go crazy. The Chinese Communist Party is going crazy over the Magnitsky Act. They're so upset by the Magnitsky Act. Everybody who has voted for Magnitsky Act or voted for sanctions against China, they're trying to sanction politicians in the west. And that's a good sign. It shows that there is a leverage in the west. I mean, you can file as many petitions in the Hong Kong court as you want, they're not going to honor them. They're not going to unfreeze the accounts. They're not going to let Jimmy Lai out of jail, but it's possible to petition the US, the EU, the UK and Canada to add more people to the Magnitsky list who are involved in all this stuff. And forget about Hong Kong, go up to the Chinese Communist Party and they'll start to pay attention if more people start getting added to the Magnitsky list.

And so I would say that it's not a totally hopeless situation because we have leverage in the west and we should use that leverage in the west. And that is the one sort of deliverable, that's the one thing that one can go and walk around the halls of Congress and ask for that will... It may not unfreeze the assets or get Jimmy Lai out of prison right away, but it's a counterweight that we can impose and it's something real and something they care about.

Nate Sibley:
Thank you so much, Bill. And I think it’s worth pointing out just the power of the US sanctions. It’s actually not just foreign banks, but actually Chinese banks based in China refuse to deal with Carrie Lam after she got sanctioned, which really annoyed the CCP as well.

But just before we dive in, you brought up so many interesting points, everyone’s building on each other’s points and I want to dive back into this stuff, but Ellen, I wondered if you had anything to add in terms of... Tell us a bit about the Committee for Freedom in Hong Kong and what are the sorts of things that you are advocating for western policymakers to do in response to this situation?

Ellen Bork:

Thank you very much. And when I get to it, I would love to ask Bill a question and get us all talking about some of those points of leverage that we have and that we need to develop further.

The Committee for Freedom in Hong Kong was founded a few months ago. Mark Clifford is on our board and our chairman is Jim Cunningham, a former U.S. Consul general in Hong Kong, Perry Link, the academic. We’re formed to respond to this new situation that we find ourselves in, where we see that Hong Kong is on the front line of China's assault on freedom around the world and that its fate is central to the outcome of this contest between free and repressive regimes that really should be seen as the defining challenge of our time.

We plan to press for political and economic consequences for China’s failure to keep its promises toward Hong Kong. We support the rule of law and freedom of expression and the release of political prisoners, and we urge the business community to stand up to China’s assault on freedom, not only because it imperils Hong Kong’s status as an international financial center, but because it’s the right thing to do.

It also happens that it’s in their interest as well, because as a number of my colleagues on the panel have pointed out, businesses are in jeopardy in Hong Kong and business people are in jeopardy and Hong Kong. Jimmy Lai is not a unique case. He’s a unique figure, a uniquely important figure to Hong Kong’s democracy movement, but you can see the way China is expanding its definition of national security in all kinds of realms. And it’s not far-fetched at all to see that a corporate analysis that downgrades a state-owned company, for example, or goes against a powerful political interest on the mainland may find themselves running afoul of a National Security Apparatus, which as Carolyn says, has every incentive to keep growing.

So that’s where we find ourselves. The committee is responding to events in Hong Kong, but also to the fact that US policy has really reached a turning point. We’ve all seen that engagement didn’t work, that the premises underlying it have fallen apart, and that Hong Kong itself, that the autonomy that defined the US policy towards Hong Kong has also of course been destroyed, and reality dictated that the United States had to acknowledge that.

So it’s a very daunting prospect to come up with new approaches and new pressures. Unfortunately, the engagement policy that we pursued for so long, we imagined that things would happen in China and quite the opposite has happened. Rather than warming to the US-led international order, rather than meet demands from citizens for freedom and the rule of law, they've done exactly the opposite. And worse than that, Xi Jinping is holding out China as a model. He offers it as a new option for other countries and nations who want to speed up their development while preserving their independence.
And by independence, he means from universal norms that the democracies around the world support and embrace.

So since we’re at that point, what do we do? Obviously, it's a very daunting prospect, partly because we gave away so much leverage. We sacrificed MFN, we sacrificed the principle we gave MFN. We made it permanent. We sacrificed the idea of human rights leverage on it. Carolyn was deeply involved in those debates and fights in the 1990s.

And even while we look for the specific pressure points to apply, it's important that we recover the habit of moral leadership on China and the habit of oppressing China. And there are a couple of ways. I don’t think there's any one instrument or one policy we can adopt. It really requires pressure across the board. The committee favors relocating the Olympics, for example, that they should never have been awarded to China in the first place and it's really quite difficult to see how countries could attend at any level, even at the athletic level, while China is carrying out a genocide and cracking down on Hong Kong, not to mention so many other things they do within their borders.

We'd also like to see much more attention given to political prisoners. That used to be something that went as a matter of course in American interactions with countries like China or the Soviet Union. And it's very important that we do that. It's very important that, I think as Bill said, they recognize what’s going on. They wouldn’t react by sanctioning people in response to our sanctions if they didn’t resent. It's not a total solution, but we have to elevate the cases of political prisoners in every interaction that every democracy has with China.

And then there are other things. We need to get much stronger at the United Nations. We need to stand up to China’s deforming of the international norms and advance of anti-norms that they have.

I think it’s true the economics. I’ve been a little frustrated by some of the sanctions because they don't necessarily target everyone they should. Two senior Hong Kong officials were promoted after being sanctioned, the former head of security who’s now the number two Chief Secretary in Hong Kong, and the former police chief, who is now the Secretary for Security. They've both been sanctioned. To me, that doesn't mean they’re not working. It means we need to do more.

I like a recommendation that was made by the Atlantic Council’s recent report to look for united front figures who have been really proxies for China, not only in Hong Kong, but around the world, and many of whom have business interests around the world and the United States. And we should look into that.

I'd also like to note that Senators Toomey and Van Hollen are approaching the administration about making sure that the sanctions are enforced by asking for information about what these international financial institutions are really doing.

So I think it's really an incremental effort that has to be pressed absolutely every day. But maybe here's what I might ask Bill about. After Carrie Lam was sanctioned, there was a story that her adult son was taking up research fellowships at Stanford and somewhere in France, what are the prospects, what is the advisability of broadening sanctions? One other example I remembered many years ago was how Hun Sen staged a coup in Cambodia and his son was allowed to graduate from West Point. What does this mean when these figures get to enjoy the free societies around the world that they deny their own citizens at home?
Bill Browder:

Well, it's a really good question and a tricky issue because... So just so it's clear, so we sanctioned the people, but not their family members at the moment. The Chinese don't do it that way. They sanction the people and their family members. And so I know a member of parliament here in the UK who has been sanctioned because she was proposing for, or pushing very hard for sanctions on the Chinese over the Uyghurs situation. And her husband who works at a multinational corporation has also been sanctioned and he had to be taken off of various projects and so on and so forth because he's been sanctioned.

It's a tricky issue because should the sons pay for their fathers' sins? And my answer to that question is if the sons are receiving financial support from their father, then they should be sanctioned as well. And so in the case of a son of a Russian oligarch who's been sanctioned, you can be pretty well assured that the son is living in a flat and the tuition is being paid. And then therefore, that person should be sanctioned.

If Carrie Lam's son or daughter is an independent, I mean, I think it's kind of hard to say that just because of who her or his mother is, they should be sanctioned because you could be against your parents. So how do you define that?

But I think the easy way to deal with that is to say that anybody who receives any kind of financial benefit should be also included in these sanctions lists. And for what it's worth it, it would have a lot more impact if the sanctions applied to the family members, because a lot of these people say, "I'm just doing this for my kids," when it comes to kleptocracy, and if all of a sudden the kids can't travel and their bank accounts are frozen, that's a different story.

And for what it's worth, there's also some very good legal scholars, Geoffrey Robertson, QC, who's one of the top human rights lawyers in the UK, who's very openly saying that Magnitsky Act should be expanded for family members. And so there's different opinions about this whole thing.

Nate Sibley:

The other thing to bear in mind when we're talking about them sending the kids to universities overseas and so forth, no Chinese official or citizen is allowed to send more than $50,000 overseas every year. So how they're paying these tuition fees is a matter for their own law enforcement as well I would argue, not that that will ever come up in the case of senior CCP officials.

I have loads of questions, but were there any other points that you wanted to pick up from each other? Because I know some of you have worked together and there was just so much that came out here. I wanted to sort of open it to you guys before I ask [crosstalk 00:38:17]

Mark Clifford:

[crosstalk 00:38:16] jump in. I would like us to talk a little bit more about, it touches on many of the excellent issues Bill brought up, and that's this kind of interplay between politics and business. And I think much of the business community in Hong Kong is still suffering from the delusion that, yeah, Jimmy Lai, he's a crazy guy who pushed things too far. I mean, I have Chinese friends who tell me that, "Oh, I feel sorry for him, but he crossed a line," but I think that we are actually doing the business community a favor, even if we do make their life a bit difficult in the short run, because, well, take Bill's
friend or colleague or frenemy who ended up in jail. I mean, the consequences can get really bad for people who don't see it coming.

So let's take a guy who's really different from Jimmy Lai, and that's a man named Jack Ma, of course, the founder of Alibaba. Jack is effectively under house arrest. Watch the interview that Joe Tsai, his longtime number two Vice Chairman did with CNBC recently. "What's Jack doing?" "Oh, Jack's taking it easy. Jack's taken up painting. Jack's a really good painter. Did you know that?" I mean, the guy is basically ... He might be worth 30 or 40 billion U.S. Dollars, but he's not a free man. And I think we have seen so many examples where we've just seen a company list in the U.S., DiDi, DiDi Chuxing, China's answer to Uber. In fact, they kicked Uber out of China they were so strong. They just listed a couple of days later. They get all sorts of regulatory action. They're in displeasure. So you cannot separate business and politics.

And what is becoming clear is this increasingly heavy-handed Chinese state, HSBC. Can HSBC really satisfy consumers or regulators in the West, even as it's being forced to kowtow and buckle in Hong Kong? It's senior executive was forced very publicly to sign a petition in favor of the national security law. I know Peter not long, not well, but I can't imagine that he would have gone out and done that of his own volition. I mean, I don't know, but hard to imagine. HSBC forced to freeze some accounts that were set up for legal defense for the protesters in 2019. Then their branches get trashed. I mean, they're just caught in between. And I just wonder, you look at ... Carolyn mentioned the airlines Cathay Pacific in Hong Kong has been hit quite hard. You mentioned in passing the NBA. I mean, I wonder if businesses are really going to be able to straddle the divide and if we aren't better pushing them harder, earlier, to basically decouple. And I'm sorry, because I've spent much of my life working for greater economic integration, but it ain't happening. This is not working out. So I don't know if Bill or [crosstalk 00:40:59] or Allen have comments.

**Bill Browder:**

It's really so clear. I mean, with this DiDi thing, particularly, and Jack Ma ... There's no such thing as being independently wealthy in a dictatorship like Russia or like China. Everybody is dependently wealthy, and they're making that super clear. I mean, so this DiDi, total dominance of ride sharing in China and they go and list them on the US stock exchange and they say that the app has to be withdrawn. The app is no longer available. I mean, so that ends the business until the app is put back on and Ant Financial and there's two other companies apparently that listed, but also have had these regulatory problems.

And it's just so clear to me that people shouldn't do business in China. People saying, "I can make so much money in China," business people. Well, you know what? You can make so much money until they decide you can't make the money anymore, and then all of a sudden it's worth zero. And that's the problem with non-rule-of-law dictatorship is that it should be thought of ... Putting aside all the moral issues from just from a financial standpoint, it just makes no sense. And we've seen that in Russia where everybody who was there ended up getting ripped off one way or another. And this whole Asia SPC thing, I mean, that's just shameful that they're busy prostrating themselves in front of the Chinese Communist Party in desperation that they don't get shut down, because sooner or later, they'll be the ones getting shut down as well.
Carolyn Bartholomew:

Yeah, I would, sorry, just add one, although this is not the topic for today, but add one thing related to businesses, and that's of course, to the risk to the US investors. And by that I'm thinking particularly people who have money in pension funds and pension fund institutional investors are making these management decisions where they are investing in Chinese companies that put the retail investor, the people in the pension fund their futures at risk. And they aren't even aware, necessarily, that that risk is happening.

One more thing I wanted to go back to is the Chinese Communist Party did what it did with the passage of the national security law with the underlying presumption that business as usual would take place, particularly when it comes to the world of finance. And I think that, Mark, is one of the issues where really getting people to understand that they might believe that business as usual is going to be able to continue, that they are a lot at risk, too.

Mark Clifford:

Well, if I can just quickly go back to the point you make about the pension funds, I think it ties in. You have people like MSCI, the index providers. And Bill's, I think, an active investor, but anybody ... Well, especially the passive investors, some active investors, like, "Oh, MSCI says I have to be in there. I guess I have to be in there." And I just wonder if some of our gatekeepers are really awake if they aren't asleep at the wheel in terms of increasing the allocation and the waiting to reflect the size of Chinese economy, China's economy, without really looking at some of the underlying legal, social, judicial structures.

Carolyn Bartholomew:

Good questions,

Nate Sibley:

Indeed. But we might have to save them for another, because I think we're coming somewhat towards the end of the end of our time here. So I want to just put really quickly to each of you, maybe just a one minute answer. I think the answer is going to be a resounding no, but do you think Hong Kong can remain the vibrant, successful commercial financial hub that it has been for so long? And if not, then what do you see it coming in the next 5, 10 years, whatever timeline you choose to answer with maybe. Maybe Carolyn you want to go first?

Carolyn Bartholomew:

No, I don't see it able to continue the way it has been, because as we mentioned, rule of law and access to information, free flow of information in real time. And what it is becoming, of course is just another Chinese city. I don't mean that as disparagingly as it sounds, but it is becoming that. But what is happening in Hong Kong is even more rigid and worse, frankly, than what is happening in other Chinese cities right now. But it's a warning. It's a warning to the world.
Mark Clifford:

Well, let me be a little contrary and just say I think it's a great experiment. I'm skeptical, but the Chinese Communist Party has made a gamble. And by the way, the leader Xi Jinping is a guy that likes to gamble. He has an appetite for risk that we don't usually see among global leaders. And he's gambled that you can destroy the place politically, in many ways socially. We have a cultural revolution that's sweeping through the courts, of course, and the press, but the schools, really, every institution is being destroyed. And then yet it can be a prosperous place, a kind of dystopian Disneyland, I guess. And they want to do that by opening Hong Kong, integrating Hong Kong more with the so-called greater bay area, 70 million people, what we'd call the Pearl River delta, open that up to financial flows, et cetera.

I'm skeptical. I think it might work for a while and within limited circumstances. It's hard for me to believe that international businesses, take an HSBC, but maybe even take an Apple computer, not the newspaper, can thrive in both east and west. I mean, 10 years ago, we could have imagined that if they weren't coming together, at least they could co-exist. It's very, very hard for me to imagine that coexistence is possible. And I think we have to go back and look at what happened in Shanghai in 1949 after the Chinese took over, or what happened in Eastern Europe, central Europe after 1945, when Stalin and the Soviets effectively destroyed civil society and governments there to see Hong Kong's future. It's not pretty.

Nate Sibley:

Bill?

Bill Browder:

I think the writing is on the wall. It's pretty obvious that ... I mean, I think in five years time, people will look back at today and say, "God, that was really a good time in Hong Kong compared to what it's like right now." I mean, you look at Russia right now. You look at Russia now versus 10 years ago, 10 years ago, it wasn't good. And now it's just a total ... a horrible stale dictatorship, but so much better 10 years ago than it was now. People will look back right now in 5 years, 10 years and say, "My God. The freedoms that we had, literally right this minute, compared to what it's going to be like ..."

First of all, China is going down a very repressive path and Hong Kong, as Carolyn said, it's just going to become another Chinese city. And people are going ... Because Hong Kong has a lot further to fall. I mean, there's still some apparent freedoms compared to what it's like in China and it's not going to be pretty. And get out while we're getting out is good is what I say.

Nate Sibley:

Thanks Bill. Ellen, final word to the committee for freedom in Hong Kong.

Ellen Bork:

Well, I think China's objectives are not exactly what we think. We hope that they would value Hong Kong's financial attributes. But at this point, they would rather create a Potemkin city with a legislature that has a patriotism litmus test that does what they want. They'll have a phony press. And I think the big question is how co-opted some, either business or other Western leaders will become, as China
creates Hong Kong has a particular model city, as a mascot, so to speak of Xi Jinping’s ... This option, this alternative set of norms. So I think it'll be a success in that sense. It will not be a success in the sense that we care about. But it unfortunately will go forward as something that China will use effectively, and unfortunately maybe get some ... Oh, I don't know, some acquiescence to by the outside world.

**Nate Sibley:**

Well, thank you all so much for your time and your insights today, into this really terrible and terribly deteriorating situation. Because of course, our gratitudes and obviously our thoughts and our prayers go out to Jimmy Lai, to the Apple Daily staff, and to the brief people of Hong Kong who are continuing to stand up, inasmuch as they can, for democracy and rule of law, in the face of, as you said, an increasingly non authoritarian, but totalitarian regime. So thanks as well to all our watchers, our audience, and we will see you soon again, next time. Thanks.

**Ellen Bork:**

Thanks [Dave 00:50:04] .

**Carolyn Bartholomew:**

Thanks.