



Oral evidence: [The UK's relations with Hong Kong: 30 years after the Joint Declaration](#), HC 649

Thursday 18 December 2014

Ordered by the House of Commons to be published on 18 December 2014

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Members present: Sir Richard Ottaway (Chair), Mr John Baron, Ann Clwyd, Mike Gapes

Questions 240-257

Witness: **Avery Ng**, Vice-Chairman of the League of Social Democrats, Hong Kong, gave evidence.

Chair: Welcome to the House of Commons for this sitting of the Foreign Affairs Committee, which is part of our inquiry into Hong Kong 30 years after the Joint Declaration. Can I just confirm that you understand that this is on the record and is being recorded?

Avery Ng: Yes. That is fine.

Q240 Chair: May I start with a general question, which will perhaps allow you to expand your views? The British Foreign Office does a six-monthly report on Hong Kong, and it has said repeatedly that “one country, two systems” continues to work well. Do you agree with that?

Avery Ng: No, I do not. I have read the six-monthly report by the Foreign Office, and to be honest I am quite disappointed by its conclusions and observations. First of all, there is supposedly a two-country system. On the economic front and on some of the social fronts, yes, it does work. But then on the political front, specifically on the election and the democracy of Hong Kong, so far we still do not see that the one-country system works as written in the Basic Law.

Discussion has been going on for years about how the democratisation of Hong Kong should progress. Time and time again, the Chinese Government and the Hong Kong Government have promised the Hong Kong people that we will gain ultimate universal suffrage, first in 2008, and then they delayed it until 2012, and now we are facing 2017—the Chief Executive election. Supposedly, according to the Basic Law in Hong Kong, we are going to implement universal suffrage in a gradual and orderly manner—a progress. But from what I can see so far, it is a gradual and orderly regress of universal suffrage.

A month ago, when the Chinese Government NPC Standing Committee issued their decisions on the proposed universal suffrage and the new electoral framework, essentially it

specified that there would be pre-screening of the candidates for Chief Executive. Previously, we had a lower hurdle rate for nomination, but then Hong Kong people do not get to vote. Now they are actually moving it up the chain and they are going to block candidates at the nomination level, where it will require the approval of 50% of the nominating committee to become a valid candidate.

The Foreign Office six-monthly report is weak, and it essentially dodged the responsibility and the obligation of the British Government set in the Joint Declaration, whereby I believe the UK Government has the legal obligation and duty to see through the implementation of the Joint Declaration as well as universal suffrage in Hong Kong.

Q241 Chair: Thank you. As you know, the Joint Declaration guarantees certain rights. Do you think that there has been an overt breach of those guarantees?

Avery Ng: It really depends because with the Joint Declaration the key phrase that we are facing is the “high level of autonomy” of Hong Kong. Supposedly, the Basic Law is an apparatus for Hong Kong Government and the people of Hong Kong to implement the value and the direction that is set forth in the Joint Declaration. Essentially, over the past 17 years, the Chinese Government have been redefining or reinterpreting the meaning of the Basic Law. As such, they are reinterpreting the rights and obligations of the Joint Declaration. I will give you an example. I just got off the plane. Apparently, yesterday in the Hong Kong Legislative Council, the Secretary of Constitutional and Mainland Affairs, Raymond Tam, when asked by—

Q242 Chair: We have seen it.

Avery Ng: You have seen it, right? So I don’t need to explain too much, but essentially he is redefining the Joint Declaration, specifically article 3, whereby it is not a Joint Declaration, but a Chinese Declaration. In effect, the Hong Kong Government and the Chinese Government are redefining not only the Joint Declaration, but international law that governs the Joint Declaration, which is a legally-binding international treaty.

Q243 Chair: How do the goals and tactics of the different protest movements differ from each other? How did the students differ from the pan-democratic parties?

Avery Ng: This will be a long answer.

Chair: Keep it relatively concise, please.

Avery Ng: Essentially, there has been an umbrella revolution of a movement happening over the past two months. In my view, that is an inevitable event; it is actually not planned or well organised. A year or two ago Benny Tai initiated Occupy Central, which gained support and momentum from the general public as well as the students. Then, because of various disagreements with the Chinese Government, the whole movement just happened organically. All of a sudden, it became a full-on occupation that lasted for two months.

No matter which way we are protesting or demanding our rights, the central and key theme of our demands is the same: universal suffrage and, more specifically, civic nomination of a Chief Executive. Obviously, among the pan-dem parties and the students, there are different opinions and views on what the best structure of the political reform package is, but the central theme is still civic nomination and a true universal suffrage and, on the Legislative Council level, the theme is a complete abolition of the functional constituencies.

Chair: Thank you. Mike.

Q244 Mike Gapes: Obviously, the protests went on for a long time. Some opinion polls suggest that popular support actually declined after peaking in October. How would you assess the situation? Is it accurate that the public support has generally gone down for the protests?

Avery Ng: I have to answer that question more specifically. We are dealing with two types of public support: the public support for the occupation and protests, and the public support for true universal suffrage and for civic nomination. If you read various other public opinion polls, you will see that the support for true, genuine universal suffrage and civic nomination has not changed much. If anything it has slightly increased and still sits around 60%, whereas support for the actual protests—the occupation—naturally, from the point of view of social movement, has always been a minority. But even though it is declining, our support is still at a healthy 30%.

What are we, the students and the pan-dem party, facing? Well, 30% support the occupation, so it is about how to evolve the movement to be more inclusive for the rest of the other 30%, who support true universal suffrage but do not necessarily agree with our tactics.

Q245 Mike Gapes: You think that there is still clear majority support for a more democratic process in 2017 for the election of the Chief Executive.

Avery Ng: Yes.

Q246 Mike Gapes: And what about LegCo itself? Is there popular support for the LegCo as an institution and the LegCo elections?

Avery Ng: The numbers are similar for the LegCo in terms of public opinion. I think more than 60% support the abolition of functional constituencies. In Hong Kong, particularly over the past five years, many controversial policies or public projects have been passed by the LegCo simply because of the existence of functional constituencies. These policies did not gain a majority of public support, but they kept on going through the legislature unchallenged. Over the past few years, the younger generation in particular have seen through the evil that the functional constituencies represent, because, after all, they only get one tenth of the votes compared with direct elections.

Q247 Mike Gapes: Obviously, these protests have gone on for quite a long time—several weeks. What is your assessment of how the Hong Kong Government have responded to them?

Avery Ng: My cracked rib has just spoken. It still hurts. Over the past two months, the police and the Hong Kong Government have been using delaying tactics and basically want to swing public opinion in their favour. To a certain extent, that worked. Looking at various different incidents over the past two months, I was on the front line and we faced Triad members using violence against protestors. Obviously, they claimed not to be affiliated with the Government or any parties, but, come on, it's Triad members beating up protestors.

As the protests progressed, we saw an increased level of police violence against protestors to the point when they essentially ignored all usual policing protocols. People were getting arrested for no valid reason. Our assembly was unlawful, but it did not warrant pepper spray, tear gas or batons. I was arrested two weeks ago during one of those violent events. I was beaten up during the arrest and then, along with 40 other comrades, was detained for 36 hours outside a police station in 12° weather without any proper care. Reports on human rights and policing are obviously available, but those are just examples of police violence and abuse of power.

Q248 Mike Gapes: What has happened to those who were arrested? Has anybody been charged with anything?

Avery Ng: I believe to date that 955 have been arrested. I do not have the exact figure, but I think around a dozen have actually been charged.

Q249 Mike Gapes: What have they been charged with?

Avery Ng: Anything from unlawful assembly to unlawful use of a computer to incite protest. But in my experience—over the past few years, I have been arrested multiple times—in general the police will do the arrest, but they may not necessarily charge you for that incident. Rather, they will take their time and build their case and charge you with another incident that was unrelated to the actual arrest. For example, in my case, legally, they are not going to charge me, because the evidence is going to be in my favour: we will see video footage of myself being beaten up by five policemen, while I was actually standing peacefully in the park. In Hong Kong we still have judicial independence, sort of, so from the prosecution's perspective they are not going to do that, but what they will do is, after the whole event has passed, target these specific leaders—student leaders and political leaders—and try to use a lot of creative ways, or creative ordinances, to charge us. We have experienced that for years.

Q250 Chair: You said you were beaten up. Were you beaten up while you were in custody or is it while you were—

Avery Ng: During the arrest.

Q251 Chair: While you were in custody, you were treated fairly, were you?

Avery Ng: While in custody I was treated relatively fairly. I am a public figure, so I was treated pretty fairly, but the other 14 students who were with me—apparently, while I was in the jail cell, it took the police another 24 hours to process their IDs and the evidence and they were left in the cold in an open parking lot. They were treated with abusive language and the air conditioning fan was left full-on. For 12 hours, the police just told them they could not find the switch.

Q252 Chair: Without putting any bias one way or the other, I think if you were arrested in the same circumstances in this country, you would probably be detained for up to 24 hours.

Avery Ng: Yes, they have the right to detain for 48 hours, but just not the treatment.

Q253 Ann Clwyd: Now that the Occupy movement seems more or less to have come to an end, what is the next step for pro-democratic activists?

Avery Ng: That is the question that we have been contemplating for many, many days. To take a step back, we view this movement as—currently, we are having a siesta, for now. Whether we like it or not, it has been two months. It has been taxing and tiring, for the protesters as well as for the public. But if you look at the timetable that we are facing, we still have at least six months before the final package—the political reform package—will be put forward to the legislature. So in those six months, I still believe there is room for us to fight for a true universal suffrage package. How we are going to go about doing that—there are going to be waves of social movement, but at the same time we do need to urge, for example, the international community to exert foreign diplomatic pressure on the Chinese Government in helping us to gain some ground in the negotiation for this reform package.

Many people say, “All right, the occupation is over for now. Life will go on and we probably, and most likely, will veto the undemocratic package and then the same thing is going to happen.” But the fact of the matter is, we are dealing with a whole new generation of young people who see through the lies and want to have their own say. It actually has not much to do with the economic hardship that the youth has been facing. Obviously, that is part of the reason, but I believe for the newer generation the fight for democracy is basically for the fundamental value that they want to have their own say.

Especially over the past two months on the TV screens you can see that it is not only the youth who have been coming out and facing tear gas. You see people from all walks of life: middle class, upper-middle class professionals, academics and lawyers came on to the streets en masse. So this is a student-led movement, but it is a public movement.

Over the next six months, there will be many more waves of protest and it is most likely that we will see another round or two of major occupation. Obviously, we do not want to do that—the same thing goes. Since we started the discussion of Occupy Central, our values have always been that we are trying to do our best to avoid occupations and protests. We would like to engage in civilised and meaningful dialogue with the Chinese Government and the Hong Kong Government. The reason why we have been on the streets for two months is because the Chinese Government, as well as the Hong Kong Government, refused to have a genuine dialogue with the pan-dems and the students.

Q254 Ann Clwyd: What should the UK's role be in Hong Kong, 17 years after the handover?

Avery Ng: Alright—actually, I have a list here. For one, I believe the British Government, as a signatory, have a legal obligation and moral duty to see through the implementation and enforcement of the Joint Declaration in Hong Kong, even past 1997. Obviously the Chinese Government have a different interpretation.

What I would hope the Government and Parliament can do is, first, adopt a resolution to reinforce your stance for universal suffrage in Hong Kong and your role in the Joint Declaration. Secondly, you can create a taskforce to actively monitor the democratisation progress of Hong Kong, because to be honest I believe that the UK Government have not done enough in the past 17 years to push the Chinese Government to put up their end of the bargain.

Granted, for the first 10 years we had some wriggle room, but after the Chinese Government closed the door essentially for true universal suffrage for 2018, the UK Government should have stepped in. But anyway, that was the past and we are talking about the future. If possible, the UK Government should take a more active role in monitoring progress.

On a high level, I believe that there is room for the UK Government to join forces with other G8 members to discuss the democratisation progress of Hong Kong. May I suggest that they should put universal suffrage in Hong Kong on the agenda at the next G8 summit? Because essentially we are facing a crisis and it is paramount, and in the UK's, the G8's and the international community's interests, that Hong Kong remains a stable, peaceful society and a global financial hub. If we do not tackle these political problems and conflicts now, I can only see society getting more and more divided and the judicial and political systems getting more and more corrupted. So it is time for the international community to act.

Lastly, obviously there is large disagreement on the interpretation of the Joint Declaration between the UK and the Chinese. The PRC Government still proclaim that they are standing by the rule of law. They are a member of the United Nations, so they should respect the judgments and rules set out by the International Court of Justice. We can always deal with disagreements over the Joint Declaration in the ICJ. I believe that that would be the most civilised way to resolve this dispute.

Q255 Mr Baron: Two questions, if I may, Avery. I think you have probably expressed in large part your dissatisfaction about the British Government's response to the protests. Can I take you back to the Joint Declaration? We have had witnesses—they have been in a minority, but they have still put their case forward in a coherent manner—that have said that there has been no actual contravention of the Joint Declaration. After all, the language used in the Joint Declaration is in places vague. What does “high degree of autonomy” actually mean, for example? It does not talk about total autonomy or anything like that. To refute that line, where would you point to actual contraventions of the Joint Declaration? In a way, I am playing devil's advocate, but I want to hear from you as to where you see the Chinese authorities actually contravening the Joint Declaration and the pact that was signed.

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Avery Ng: At the moment, the disagreement is not even on the definition of “high degree of autonomy”; it is on the validity of the Joint Declaration. The Chinese Government proclaim that the Joint Declaration was voided right after the handover, which anyone with a basic knowledge of international law knows not to be the case. I believe that the UK Government can initiate high-level official talks with Chinese officials to put the issues and the disagreement on the table, rather than going through the media and various other third party channels. It is about the validity of the Joint Declaration.

Q256 Mr Baron: Can I move us on to the effect that you think it would have if Britain did become more robust in its language publicly, thump the table more and, as you say, try to gather international friends to try to push the case? What effect do you think that would have on the ground with regards to the protest? There is a line within the FCO that you try to make pressure felt below the surface and it is hopefully more effective. There is a suspicion that commercial interests are playing a part in all this response and so on, and I would be surprised if that was not true, at least to a certain extent. What effect do you think Britain could have by being much more public and robust on China, within Hong Kong and with regard to the welfare and prospects for success of the protesters?

Avery Ng: The simple answer is that we have tried that avenue of below-the-surface pressure for years, and look where it has brought us: nowhere. I am not saying that there is going to be a guaranteed positive result from increased and more visible international pressure on the Chinese Government, but, based on my analysis, my view is that for now, because of their supposedly increased economic might, the Chinese Government are exerting pressure on the international community to try to get you to stay away from Hong Kong affairs. That may be valid for all other countries, but seriously, it is not valid for the UK. The UK is a signatory of the Joint Declaration, and you have a legal responsibility to see it through.

Now, the Chinese Government will say that there are going to be economic and trade repercussions, and that is not good for business—not for the UK, not for Hong Kong and not for China—but I strongly urge the British Government to think twice. Stability, fairness and freedom for the Hong Kong people and for the actual system are paramount for the stability of the Hong Kong economy and, on a wider note, the Chinese economy. Whether or not the Chinese Government keep emphasising the fact that the foreigner needs their investment, their purchases and their trade, the flip side of the coin is that the Chinese need as much from the international community as you need from them. You are on a level playing field, and if we can have civilised diplomatic dialogue and engagement between the UK Government and the Chinese Government we may see some progress.

To be fair, Hong Kong students are on the streets. The pan-dem politicians have very little room for manoeuvre in terms of political pressure in Hong Kong. As for the Hong Kong business community, many of them—even the older ones who support the values of freedom, democracy and justice—will be too constrained to express their true views because of the Chinese tie. It is up to the international community—I think that is the most effective and direct way.

Q257 Chair: Thank you very much indeed for coming along today. It is always good to see you. Have you come over especially for this or are you combining it with other things?

Avery Ng: I am combining it with a business trip.

Chair: Well, I wish you well and thank you very much for coming along.