



ONE HUNDRED SEVENTEENTH CONGRESS
SENATOR JEFF MERKLEY, CHAIRMAN
REPRESENTATIVE JAMES P. MCGOVERN, COCHAIRMAN

July 20, 2022

The President
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

The erosion of the rule of law and human rights in Hong Kong threatens U.S. interests and is a global concern given the city's previous status as a model of prosperity and political stability, which was built on rights protections and investor confidence in the legal system. With this letter, we want to highlight the role Hong Kong's Justice Department and criminal prosecutors play in undermining the rule of law and detaining political prisoners. We ask that you consider targeting additional sanctions to those engaged in political prosecutions in Hong Kong, pursuant to the Hong Kong Human Rights and Democracy Act (Public Law No. 116-76) and the Hong Kong Autonomy Act (Public Law No. 116-149).

Since the 2019 pro-democracy protests, Hong Kong officials have arrested over ten thousand people on political and protest-related offenses, including under the National Security Law (NSL). The NSL was implemented in June 2020 by central authorities in the People's Republic of China (PRC) under the policy direction set by Chinese Communist Party General Secretary Xi Jinping with no meaningful input from Hong Kong residents. Not only did the unilateral passage of the NSL undermine Hong Kong's high degree of autonomy, it strips away procedural protections for NSL defendants, including by imposing a strict bail standard that presumes guilt, trial by politically selected judges, and possible extradition to mainland China where torture and other egregious human rights violations are commonplace.

Three years after the protests, the negative effects of political prosecution are evident. Important institutions that monitor government accountability, including the independent press and civil society organizations, have been rapidly dismantled under the broad and indiscriminate enforcement of the NSL and related laws. Instances of this include the Hong Kong government accusing attendees at court proceedings of "sedition" for clapping to show support for pro-democracy defendants, arresting speech therapists for "conspiring to publish seditious publications" over children's books deemed to have anti-government messages, and sentencing a protester to six years in prison on an "inciting secession" charge for chanting protest slogans. Regrettably, the freedom of speech is no longer possible without substantial risk.

Hong Kong government prosecutors are complicit in undermining the city's once robust rule of law. Not every prosecutor engages in political prosecution; in fact, some of them have courageously spoken out against their leadership's failure to abide by professional ethical standards. But the Hong Kong government has taken steps to institutionalize political prosecution by creating a Special Duties team to exclusively handle political cases. While the new Secretary of Justice is widely expected to continue his predecessor's hardline approach in quashing voices of criticism and dissent, individual prosecutors currently are permitted to decline to participate in political cases.

The Hong Kong Department of Justice and the prosecutors who voluntarily try political cases should be subject to sanctions for materially contributing to the failure of the PRC to meet its obligations under the Sino-British Joint Declaration and for the arbitrary detention of individuals for exercising universally recognized human rights. Such sanctions will be a tangible demonstration of the Administration's interest in the PRC and Hong Kong authorities upholding their international legal obligations as well as international interest in the release of political prisoners.

We are attaching a memorandum that lays out in more detail relevant contextual information and recent developments for your reference.

Sincerely,



Senator Jeffrey A. Merkley
Chairman



Representative James P. McGovern
Cochair



Senator Marco Rubio
Ranking Member



Representative Christopher H. Smith
Ranking Member



Senator Dianne Feinstein
Commissioner



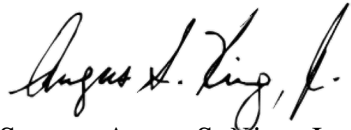
Representative Tom Malinowski
Commissioner



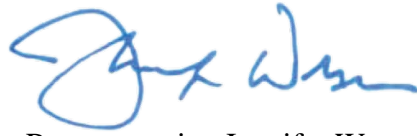
Senator Steve Daines
Commissioner



Representative Thomas R. Suozzi
Commissioner



Senator Angus S. King, Jr.
Commissioner



Representative Jennifer Wexton
Commissioner



Senator Tom Cotton
Commissioner



Representative Vicky Hartzler
Commissioner