



Re: China’s National Security Law for Hong Kong

July 30, 2020

Dear Foreign Ministers,

Signatories:

- China Aid Association
- Chinese Human Rights Defenders
- Citizen Power Initiatives for China
- CSW
- Dialogue China
- Freedom House
- Georgetown Center for Asian Law
- Hong Kong Democracy Council
- Hong Kong Watch
- Human Rights in China
- Human Rights Watch
- Humanitarian China
- Andréa Worden, Independent Scholar
- International Campaign for Tibet
- International Tibet Network Secretariat
- Uyghur Human Rights Project
- Victims of Communism Memorial Foundation

We, a coalition of 17 organizations and independent scholars, write to express our grave concerns about Hong Kong’s National Security Law, imposed on June 30, 2020 by the Chinese government. We appreciate the concerns you have expressed publicly about this development, but appeal to you to take specific actions that will make clear to the central Chinese and Hong Kong authorities that the National Security Law necessitates a fundamental change in relations.

The National Security Law – imposed by the Standing Committee of the National People’s Congress of the People’s Republic of China (PRC) without consultation with the people of Hong Kong – sets out broad prohibitions encapsulating an ill-defined array of “conduct” and “activities” that can include the peaceful exercise of fundamental rights protected under Hong Kong’s Basic Law (Hong Kong’s functional constitution), the PRC constitution, and international law. The law stipulates harsh penalties, including life in prison, for secession, subversion, terrorism, and collusion with foreign forces, but does not clarify what specific activities would merit such charges.

The law establishes a new Office for Safeguarding National Security (Arts. 48-60), which appears to have oversight power over all national security work in the Hong Kong Special Administrative Region (SAR), but will be staffed by mainland Chinese officials, operate within the framework of Chinese law, be supervised by national authorities (Art.

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50), and have staff and operations that will be not subject to the jurisdiction of the Hong Kong SAR (Art. 60). However, the Basic Law specifies that all central Chinese government offices set up in Hong Kong and their personnel “shall abide by the laws of the Region” (Basic Law, Art. 22). The Office for Safeguarding National Security can exercise jurisdiction over cases (Art. 55) and the defendants in those cases will be prosecuted under Chinese laws in mainland China (Arts. 56-57), where due process and fundamental rights are routinely flouted.

The law creates a new “department for safeguarding national security” inside the Hong Kong Police Force to handle national security cases (Art. 16) and that can “recruit” specialists and technical personnel from outside the Hong Kong SAR to perform tasks relating to national security (Art. 16). The implementation rules issued by the Hong Kong government also authorize the Hong Kong Police Force to conduct search and seizure without court-issued warrants.

The National Security Law stands in stark contrast to the experiences of and rights guaranteed to Hong Kong people. Since the transfer of sovereignty over Hong Kong on July 1, 1997, they have maintained their ability to speak freely, participate in politics, join civic groups, and protest peacefully without fear of arrest. Those rights have been ensured by an independent and professional judiciary, a free media, and respect for the rule of law. The 2019 protests were prompted by widespread concerns that proposed extradition amendments would threaten the rule of law in Hong Kong, and amplified demands for universal suffrage. This law – the Chinese government’s response to those demands – reflects a profound disdain for the protections afforded under international human rights law.

Governments, like yours, that believe in respect for international law and human rights need to stand by the people of Hong Kong and respond with urgent and meaningful actions. We urge all governments, including yours, to:

- Publicly and unequivocally condemn the National Security Law, and be clear that your government will not enable or cooperate with its extraterritorial application or Hong Kong police requests for information concerning those accused of national security crimes;
- Swiftly adopt mechanisms to enable people from Hong Kong to find safe haven in your country;
- Impose targeted sanctions on those Chinese and Hong Kong officials involved in drafting, adopting, and implementing the law, and thereby violating core human rights as laid down in international law;
- Suspend any extradition treaty or agreement with Hong Kong until such time as it can be determined that those transferred to Hong Kong for criminal prosecution would be guaranteed fair trial rights, not subjected to ill-treatment, and not surrendered to Chinese authorities;
- Ensure internet service providers refuse to cooperate with Hong Kong Police Force requests for providing, removing, or limiting online expressions of political views;

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- Improve the capabilities of your consulate in Hong Kong to monitor human rights violations and the impact of the National Security Law, and increase support for human rights groups, independent local media, and internet freedom;
- Review and cease export licenses or approvals for the sale of dual-use technologies and less-lethal weapons to the mainland and Hong Kong, including public and private entities;
- Ensure companies limit exporting equipment or technology and technical support that can be used for intercepting personal communication or conducting surveillance to the Hong Kong Police Force;
- Engage chambers of commerce and other industry associations from your country to reaffirm support for the respect of human rights, the rule of law, and civic participation, and communicate publicly the social, financial, and operational risks presented by the law;
- Ensure Hong Kong activists who have relocated to your country can continue their activism safely and without harassment from the Chinese government, including by any overseas United Front initiatives; and
- Support the call by 50 United Nations human rights experts to hold a special session on China at the UN Human Rights Council and establish a new monitoring mechanism on China.

We are aware that Chinese authorities place pressure on other governments and businesses to stay silent about human rights violations, such as those posed by the National Security Law. Yet the importance of ensuring respect for the human rights for seven million Hong Kong people is undeniable. Violations of rights of this scale and severity require steadfastness and perseverance to prevent and end them. By actively taking steps to help the Hong Kong people, and raise the price on rights-violating officials in Beijing and Hong Kong, your government can help mitigate repression, both now and in the future. We urge that you do so in coordination with like-minded governments to create more leverage.

We look forward to an opportunity to discuss this matter with you.

Sincerely,

Dr. Bob Fu, Founder and President, China Aid Association
Renee Xia, Director, Chinese Human Rights Defenders
Lianchao Han, Vice-president, Citizen Power Initiatives for China
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