

December 15, 2020

Senator John Cornyn
Chairman
Subcommittee on Border Security
and Immigration

Senator Dick Durbin
Ranking Member
Subcommittee on Border Security
and Immigration

RE: December 16th hearing on “Supporting Hong Kong’s Pro-Democracy Movement Through U.S. Refugee Policy”

Dear Chairman Cornyn, Ranking Member Durbin, and Members of the Committee:

On behalf of Amnesty International and our 10 million members, activists, and supporters worldwide, we submit the following statement on the concerning human rights situation in Hong Kong and Congress’s interest in supporting Hong Kongers at risk, including through increasing Congressional support for the U.S. Refugee Admissions Program (USRAP). We appreciate the Committee’s efforts to find ways to ensure the safety of Hong Kongers who face persecution and strongly encourage this Committee to demonstrate their commitment by increasing support for the USRAP and increased asylum protections in the United States. Further, the United States should support the human rights of the people of Hong Kong in all bilateral and multilateral dialogues with China both publicly and privately and call on the Chinese government and Hong Kong authorities to repeal or amend the National Security Law on the basis that it is incompatible with international human rights obligations.

Background on Human Rights Situation in Hong Kong

On June 30, 2020, China’s top legislative body passed a [draconian national security law](#) for Hong Kong that entered into force in the territory the same day. The passing of the national security law represents the greatest threat to human rights in the city’s recent history, with the government of China now having the power to impose its own laws on any criminal suspect it chooses. The speed and secrecy with which the Chinese government pushed through the legislation immediately intensified the fear that Beijing has calculatingly created a weapon of repression to be used against government critics, including people who are merely expressing their views or protesting peacefully, a human right enshrined in international law. Prior to the law’s passage, Amnesty International opposed the law’s passage, raising a [range of human rights concerns](#) about the law.

The law is dangerously vague and broad. Virtually anything could be deemed a threat to “national security” under its provisions, and it can apply to anyone on the planet. Under this new law “secession”, “subversion”, “terrorism” and “collusion with foreign forces” incur maximum penalties of life imprisonment. But these offences are so broadly defined they can easily become catch-all offences used in politically motivated prosecutions with potentially heavy penalties. The United Nations human rights office and expert bodies have repeatedly [expressed concerns about the national security law](#), stating the broadly worded legislation can lead to “discriminatory or arbitrary interpretation and enforcement which could undermine human rights protection”. Under the national security law, suspects could be removed to mainland China, handled within the mainland’s criminal justice system and tried under mainland law. Being charged with a national security crime on the mainland can lead to arbitrary or even secret detention. This is the same prospect that sparked the series of large-scale protests from mid-2019.

Very concerning, and as could be reasonably expected, from day one the law has been abused. Immediately after the law's passage, authorities started to use it to crack down on legitimate and peaceful expression. People were arrested for possessing flags, stickers, and banners with political slogans. Two days after the law was passed, the Hong Kong government declared that "Liberate Hong Kong, the revolution of our times", a common political slogan during last year's protests, "connotes 'Hong Kong independence', or separating Hong Kong from China, and effectively forbade its use.

In late July, four student activists were arrested over [social media posts](#) allegedly "inciting secession" under the national security law and are potentially facing life sentences. One of the student activists, [Tony Chung](#), was charged with secession, money laundering, and conspiracy to publish seditious material and denied bail. Just this month, [Chung was convicted](#) in another case of "desecrating the Chinese national flag and taking part in an unlawful assembly".

Also in July, 12 pro-democracy candidates who advocate viewpoints at odds with those of the government were [disqualified](#) from running in Hong Kong's Legislative Council elections. This move is likely to intensify the climate of fear and tension in Hong Kong, where opposition figures, their supporters, activists on the streets, and even ordinary people have been forced to self-censor their political discourse to avoid being targeted under the law.

In August, Hong Kong police raided the offices of [pro-democracy newspaper Apple Daily](#) and arrested owner Jimmy Lai and five others for "collusion with a foreign country or external forces to endanger national security" under the new national security law. According to media reports, [Jimmy Lai](#) was charged with "fraud" on December 3 and denied bail. Also in August, the Chinese coast guard [arrested 12 Hong Kongers](#) for allegedly crossing the border between Hong Kong and China in secret in a speedboat. Two of them were under 18 years old when arrested. Held incommunicado, without access to their family and family-hired lawyers, they are at risk of torture and other ill-treatment. Four family-hired lawyers from mainland China dropped the cases after they were threatened by authorities.

On November 11, China's National People's Congress Standing Committee passed a resolution on "national security" grounds to disqualify Hong Kong lawmakers. On that same day the [Hong Kong government directly disqualified opposition lawmakers](#) Alvin Yeung, Dennis Kwok, Kwok Ka-ki and Kenneth Leung, without any further formal judicial process. Using a framework laid out in Beijing and executed by the Hong Kong government, these lawmakers have been banished from the city's legislature for advocating views that the ruling authorities don't want to hear. The disqualification of politicians under the pretext of "national security" is yet another example of the Chinese central government's campaign to silence dissent in the city by any means.

On December 2, [Joshua Wong, Agnes Chow and Ivan Lam](#)—all former members of the disbanded political party Demosisto—were sentenced to jail over their involvement in the 2019 Hong Kong protests, joining the many others who have received jail time for simply exercising their right to protest peacefully. Once again, the government used the politically motivated charge of "inciting others to protest" to prosecute people who have merely spoken out and protested peacefully. By targeting well-known activists from Hong Kong's largely leaderless protest movement, authorities are sending a warning to anyone who dares to criticize the government that they could be next.

Finally, in early December, Hong Kong authorities arrested eight people who participated in a protest at the Chinese University of Hong Kong, including three students who have been charged under the national security law. These arrests are yet another example in an increasingly long list of the Hong Kong government's attempts to silence opposing views on campus under the pretext of "national security." The

people involved in this small protest were merely expressing their views peacefully, but this is now treated as a crime in Hong Kong, as both the Hong Kong and central Chinese authorities seek to crush all forms of dissent. Amid sweeping repression of freedom of expression in Hong Kong's education institutions, students and teaching staff from primary schools, secondary schools, and universities alike have become targets of political prosecutions under the pretext of 'national security'.

All these examples show how the law and its usage contravene international human rights laws and standards. Peacefully expressing one's opinion about political systems does not constitute a threat to national security. No one should face jail time or be prohibited from participating in the political process – or worse – for expressing views contrary to the government.

Supporting the U.S. Refugee Admissions Program

Currently, there are nearly 80 million people forcibly displaced because of war, violence, persecution, or the climate crisis – with the number only growing worse every year. Nearly 26 million of those displaced are refugees, having fled their country of origin and unable or unwilling to return voluntarily. Further, The United Nations High Commissioner for Refugees estimates that there are over 1.4 million refugees in need of resettlement in 2021, many of whom are from protracted refugee situations, stuck in limbo for decades.

Resettlement is a lifeline for refugees and a key component of responsibility-sharing that allows countries to support each other by agreeing to resettle refugees from host countries. Whether an individual is fleeing violence or armed conflict, or fleeing persecution based on who they are or what they believe, refugee resettlement to countries like the United States should be available for individuals who cannot stay where they are. Unfortunately, however, the international community - and of late the United States - has failed to meaningfully share the responsibility for protecting displaced and persecuted people, often with grave consequences.

Since the 1980 Refugee Act established the refugee program, the U.S. has historically resettled the largest number of refugees annually. From 1980 until 2017, U.S. administrations have, on average, set the ceiling for refugee resettlement at 95,000. The admissions ceiling for Fiscal Year 2021 is 15,000, the lowest goal ever set by any administration, and accompanied by drastic changes to the types of refugees prioritized. Last month, the [United Nations announced](#) that 2020 will be a "record low" year of resettlement, with only 15,425 people resettled in the first nine months of 2020, compared to more than 50,000 the year before.

This drastic reduction in resettlement opportunities globally is, in large part, due to the U.S.'s historic drawback in its commitment to this critical and durable protection opportunity. A fundamental principle of refugee protection is responsibility-sharing and international cooperation. Unfortunately, the U.S. government has all but abandoned its duty to share in its responsibility to protect refugees. Successive bans and policy changes have taken their toll, with many refugees who expected to be resettled to the U.S. stuck in a never-ending limbo of security vetting that can take many years. As a result of these changes to the program, the U.S. refugee program increasingly cannot be seen as a life-saving program for those at immediate risk, for the U.S. vetting system can simply not move fast enough to accommodate individuals who are at imminent risk in their current location. The U.S. does have a secure program, but it is a program that does not move fast enough to provide protection to the very people it seeks to serve.

Further, a series of policy changes have made asylum all but impossible to access, including for Hong Kongers seeking safety in the United States. For example, a sweeping new rule, set to go into effect on January 11, 2021, eviscerates asylum eligibility and [runs counter](#) to U.S. obligations under the 1951

Refugee Convention and its Protocol. Among many other changes, the rule would dramatically restrict who can qualify for asylum on the basis of political opinion, thus jeopardizing Hong Kong dissidents' ability to access asylum. Another proposed rule would [prevent people](#) from accessing asylum on public health grounds, and is so sweeping it could theoretically foreclose asylum for everyone who applies. The incoming administration can and should quickly reverse these and other policies that restrict access to asylum.

Conclusion and Recommendations:

The Hong Kong national security law has failed to genuinely protect national security while flouting human rights. The consequences are grave – the undefined nature of key aspects of the law has created fear among people in Hong Kong, as no one knows what may constitute an offence of “endangering national security” and, hence, put them at risk of criminal prosecution, removal to the mainland, or deportation from the territory.

It is recognized that every government has a duty to protect people under its jurisdiction and that some countries have specific security concerns. But these may never be used as an excuse to deny people the right to express different political views or to exercise their other human rights as protected by international legal standards. It is quite clear that the Hong Kong national security law is another example of a government using the concept of “national security” to repress political opposition, with significant risks for human rights defenders, critical media reporting, and civil society at large.

The United States and this Committee are well justified in their desire to ensure that persecuted people at risk, including Hong Kongers, can access safety in the United States. However, this Committee should ensure that the very programs meant to protect refugees and at-risk populations are actually working, respect human rights, and are supported fully by the U.S. Government.

Thus, we call on U.S. officials and Congress to:

- Support the human rights of the people of Hong Kong by calling on the Chinese government and Hong Kong authorities to repeal or amend the National Security Law on the basis that it is incompatible with international human rights obligations and stop using the National Security Law to disproportionately limit peaceful expression.
- Ensure the United States is closely monitoring the treatment of individuals who are criminally prosecuted, detained, or imprisoned on the basis of the National Security Law and insist that all authorities comply with international human rights standards.
- Call for pro-democracy lawmakers and their supporters to be allowed to meaningfully participate in the political process, and that authorities allow all disqualified members of political parties to challenge the decision in court and let the legal process play out transparently.
- Oppose the prioritization of refugees from Hong Kong to the detriment of other particularly vulnerable refugees, as [President Trump's executive order](#) issued on July 14, 2020, seeks to do, instead ensure Hong Kongers at risk of persecution have access to protection in the United States, including by designating them as a Priority 2 in the USRAP.
- Restore a fair, just, and welcoming asylum process in the United States, including by ensuring that people seeking safety are not detained as default and have meaningful access to medical and child welfare experts, and by ensuring that immigrants and asylum-seekers in proceedings are guaranteed access to counsel.
- Ease pressure on countries currently hosting the greatest number of refugees by participating in equitable and predictable pathways to protection for refugees, including by expanding access to traditional resettlement, and by facilitating the successful integration of refugees in their host countries or helping to facilitate the conditions for voluntary return to refugees' countries of origin.

- Support President-elect Biden's call for increasing the FY21 admissions goal and restore regional allocations for refugee admissions to reflect global needs, reestablish the U.S. Refugee Admissions Program's acceptance of UN High Commissioner for Refugees referrals, and ensure Congress appropriates increased funds to allow for increased refugee admissions in FY21.
- In addition to expanding resettlement, the U.S. should invest in other admission pathways, including humanitarian programs, family reunification, and a private sponsorship model, and expand community involvement in resettlement by robustly promoting community sponsorship through co-sponsorship programs and private sponsorship.
- Apply the provisions of the 1951 Refugee Convention and the 1967 Protocol to refugees without discrimination.

We stand ready to work with this Committee and this Congress to ensure that Hong Kongers, and other persecuted people, can access safety and a new life here in the United States. Should you have any questions, do not hesitate to reach out to Joanne Lin at JLin@aiusa.org.

Sincerely,

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