

The Project for the New American Century
&
The U.S. Committee for Hong Kong

November 25, 2002

The Honorable George W. Bush
President of the United States
Washington, DC

Dear Mr. President:

Since Hong Kong's 1997 reversion to Chinese rule, U.S. officials have expressed repeatedly America's commitment to defending Hong Kong's freedoms. You reiterated this concern during your recent meeting with President Jiang Zemin.

Proposed national security laws soon to be introduced in the Hong Kong Legislative Council, however, represent a new and heightened threat to Hong Kong's freedoms and autonomy. These laws - which include laws on treason, subversion and sedition - will curb freedom of speech, assembly and association. If enacted, they would endanger Hong Kong's democratic, civil rights, labor, academic and religious communities by exposing them to prosecution and imprisonment.

This danger exists even if these laws are narrowly drawn because of the broader political context in which they will operate. Hong Kong's legislature is not fully democratic, its chief executive is chosen by Beijing, and the independence of the courts is limited. Hong Kong's system of government gives the central Chinese government control over key levers of power.

Even where the Hong Kong government may appear to act on its own, Beijing makes its desires known through statements made by its top officials, and through Chinese-owned or controlled outlets of the Hong Kong media. Last summer, for example, Vice Premier Qian Qichen declared that it was now time to enact these national security laws. Tellingly, in response to local and international protests over the laws, Mr. Qian said the laws' opponents "must have the devil in their hearts." In brief, these new laws will be enforced in an environment in which the appropriate political and legal checks and balances do not exist, and under the influence of a regime with a record of using national security laws to punish advocates of political and religious freedom.

Wishing to defend Hong Kong's freedoms under Chinese rule, the U.S. Congress adopted the U.S. Hong Kong Policy Act, a law that gives Hong Kong treatment separate from the mainland on important matters. Under the law, the president is empowered to determine whether Hong Kong is sufficiently autonomous to merit that privileged treatment. So far, U.S. presidents have been reluctant to conclude that the systemic limitations on the citizens of Hong Kong and the setbacks to its autonomy since 1997 require a change in Hong Kong's treatment under U.S. law. However, with the enactment of the proposed national security laws, it would be impossible to credibly maintain that Hong Kong enjoys the high degree of autonomy and the rights and freedoms it was promised on its reversion to China.

Only when Hong Kong's government is democratic and its courts truly independent will national security laws reflect the proper balance between freedom and legitimate law enforcement interests. Until then, the U.S. should forthrightly oppose the introduction of new national security laws and make clear that the adoption of restrictive laws would trigger a review of Hong Kong's special status under the U.S. Hong Kong Policy Act.

Sincerely,

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