

116TH CONGRESS
2D SESSION

H. R. 5725

To impose sanctions under the Global Magnitsky Human Rights Accountability Act to combat the suppression of the freedoms of speech, association, assembly, procession, and demonstration of the people of Hong Kong, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2020

Mr. GALLAGHER introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To impose sanctions under the Global Magnitsky Human Rights Accountability Act to combat the suppression of the freedoms of speech, association, assembly, procession, and demonstration of the people of Hong Kong, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hong Kong Be Water
5 Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE CONGRESSIONAL COMMIT-
4 TEES.—The term “appropriate congressional com-
5 mittees” means—

6 (A) the Committee on Foreign Relations,
7 the Committee on Armed Services, the Select
8 Committee on Intelligence, the Committee on
9 Banking, Housing, and Urban Affairs, the
10 Committee on the Judiciary, and the Com-
11 mittee on Appropriations of the Senate; and

12 (B) the Committee on Foreign Affairs, the
13 Committee on Armed Services, the Permanent
14 Select Committee on Intelligence, the Com-
15 mittee on Financial Services, the Committee on
16 the Judiciary, and the Committee on Appro-
17 priations of the House of Representatives.

18 (2) BASIC LAW.—The term “Basic Law” means
19 the Basic Law of Hong Kong.

20 (3) FOREIGN PERSON.—The term “foreign per-
21 son” means an individual or entity that is not a
22 United States person.

23 (4) HONG KONG.—The term “Hong Kong”
24 means the Hong Kong Special Administrative Re-
25 gion of the People’s Republic of China.

1 (5) JOINT DECLARATION.—The term “Joint
2 Declaration” means the Joint Declaration of the
3 Government of the United Kingdom of Great Britain
4 and Northern Ireland and the Government of the
5 People’s Republic of China on the Question of Hong
6 Kong, done at Beijing December 19, 1984.

7 (6) KNOWINGLY.—The term “knowingly”, with
8 respect to conduct, a circumstance, or a result,
9 means that a person has actual knowledge, or should
10 have known, of the conduct, the circumstance, or the
11 result.

12 (7) NATIONAL.—The term “national” has the
13 meaning given that term in section 101(a) of the
14 Immigration and Nationality Act (8 U.S.C.
15 1101(a)).

16 (8) UNITED STATES PERSON.—The term
17 “United States person” means—

18 (A) a United States citizen or an alien law-
19 fully admitted for permanent residence to the
20 United States; or

21 (B) an entity organized under the laws of
22 the United States or of any jurisdiction within
23 the United States, including a foreign branch of
24 such an entity.

1 **SEC. 3. FINDINGS.**

2 Congress makes the following findings:

3 (1) In February 2019, the Government of Hong
4 Kong proposed the “Fugitive Offenders and Mutual
5 Legal Assistance in Criminal Matters Legislation
6 (Amendment) Bill 2019” (in this section referred to
7 as the “extradition bill”).

8 (2) The extradition bill would have allowed for
9 the extradition of individuals from Hong Kong to
10 the mainland of the People’s Republic of China for
11 the first time and offered minimal if any legal re-
12 course to those individuals identified for extradition.

13 (3) The extradition bill was but the latest ex-
14 ample of the steady encroachment of the Govern-
15 ment of the People’s Republic of China on the free-
16 doms guaranteed to the people of Hong Kong under
17 the Joint Declaration and the Basic Law.

18 (4) Millions of the people of Hong Kong have
19 taken to the streets in peaceful protests since the in-
20 troduction of the extradition bill in order to defend
21 Hong Kong’s democracy against predations by the
22 Government of the People’s Republic of China, as
23 enabled by Government of Hong Kong.

24 (5) The Government of Hong Kong has re-
25 sponded to those peaceful protests with force and
26 brutality, including by authorizing the use by the po-

1 lice of tear gas, water cannons, rubber bullets, and
2 beatings, resulting in the arrests and injuries of
3 thousands of people.

4 (6) On October 1, 2019, the Hong Kong police
5 fired live ammunition at a teenage protestor, mark-
6 ing a dangerous escalation in the Hong Kong police
7 force's use of force against protestors.

8 (7) The Government of Hong Kong has invoked
9 the Emergency Regulations Ordinance in order to
10 expand the powers available to Hong Kong's police
11 as they suppress protestors.

12 (8) The Government of Hong Kong has coopted
13 or coerced local companies like MTR Corporation
14 Limited and Cathay Pacific Airways Limited into fa-
15 cilitating the suppression of protests by denying
16 protestors' access to reliable train services and ter-
17 minating staff who support the pro-democracy move-
18 ment.

19 (9) The Government of Hong Kong continues
20 to defy peaceful protestors' rightful demands for the
21 resignation of Chief Executive of Hong Kong Carrie
22 Lam, an impartial inquiry into police brutality, and
23 greater democratic freedoms, as guaranteed to the
24 people of Hong Kong by the Government of the Peo-
25 ple's Republic of China.

1 (10) The unwillingness of the Government of
2 Hong Kong to meet protestors' demands is a direct
3 product of its role, not as a representative or pro-
4 tector of the people of Hong Kong, but rather as a
5 proxy for the regime of the Communist Party of
6 China in Beijing, which has demonstrated its intent
7 to impose its will on Hong Kong, including through
8 paramilitary or military force.

9 (11) The approach of that regime to Hong
10 Kong is not fundamentally dissimilar from the ap-
11 proach the regime has taken elsewhere in the Indo-
12 Pacific region and beyond, including by using eco-
13 nomic threats to compel Air Canada, Air France,
14 Apple, Audi, Blizzard Entertainment, British Air-
15 ways, Calvin Klein, Christian Dior, Coach, Dolce &
16 Gabbana, Google, Malaysia Airlines, Marriott Ho-
17 tels, the National Basketball Association, Qantas
18 Airlines, Swarovski, Tiffany & Co., and Versace into
19 remaining silent in response to its treatment of
20 protestors in Hong Kong.

21 **SEC. 4. SENSE OF CONGRESS.**

22 It is the sense of Congress that—

23 (1) the Government of the People's Republic of
24 China has willfully violated the terms of the Joint
25 Declaration and the Basic Law;

1 (2) the steady encroachment of the Government
 2 of the People's Republic of China on the freedoms
 3 and democracy of the people of Hong Kong reflects
 4 the fundamentally totalitarian nature of the regime
 5 of the Communist Party of China; and

6 (3) the totalitarian ambitions of the Communist
 7 Party of China do not end in the territory of the
 8 mainland of the People's Republic of China, but
 9 rather extend to the remainder of the Indo-Pacific
 10 region, as part of a broader hegemonic vision that
 11 would see the Government of the People's Republic
 12 of China exert domineering influence over the inter-
 13 ests and behavior of other countries in that region.

14 **SEC. 5. GLOBAL MAGNITSKY SANCTIONS WITH RESPECT TO**
 15 **CERTAIN GOVERNMENT OFFICIALS THAT EN-**
 16 **GAGE IN SUPPRESSION OF FREEDOMS OF**
 17 **SPEECH, ASSOCIATION, ASSEMBLY, PROCES-**
 18 **SION, AND DEMONSTRATION OF THE PEOPLE**
 19 **OF HONG KONG.**

20 (a) IN GENERAL.—Not later than 90 days after the
 21 date of the enactment of this Act, and as appropriate
 22 thereafter, the President shall impose the sanctions de-
 23 scribed in subsection (c) with respect to each foreign per-
 24 son described in subsection (b) if the President has cred-
 25 ible information that the foreign person has knowingly

1 suppressed or facilitated the suppression of the freedoms
2 of speech, association, assembly, procession, or demonstra-
3 tion of the people of Hong Kong, as guaranteed under Ar-
4 ticle 27 of the Basic Law.

5 (b) FOREIGN PERSONS DESCRIBED.—A foreign per-
6 son described in this subsection is a foreign person who
7 is—

8 (1) a current or former official of the Govern-
9 ment of Hong Kong;

10 (2) a current or former official of the Govern-
11 ment of the People’s Republic of China; or

12 (3) acting on behalf of, or in cooperation with,
13 an official of either such Government.

14 (c) SANCTIONS DESCRIBED.—The sanctions de-
15 scribed in this subsection are the sanctions described in
16 section 1263(b) of the Global Magnitsky Human Rights
17 Accountability Act (subtitle F of title XII of Public Law
18 114–328; 22 U.S.C. 2656 note).

19 (d) REPORT ON IMPLEMENTATION.—Not later than
20 15 days after imposing sanctions under subsection (a), the
21 President shall submit to the appropriate congressional
22 committees a report regarding measures taken to imple-
23 ment this section.

24 (e) TERMINATION.—This section shall terminate on
25 the date on which the President determines and certifies

1 to the appropriate congressional committees that the Gov-
2 ernment of Hong Kong is no longer suppressing, or
3 complicit in the suppression of, the freedoms of speech,
4 association, assembly, procession, and demonstration of
5 the people of Hong Kong.

6 **SEC. 6. FREEZING OF ASSETS OF CHINESE NATIONALS AND**
7 **STATE-OWNED ENTERPRISES UNDERMINING**
8 **THE AUTONOMY, BASIC LIBERTIES, AND**
9 **HUMAN RIGHTS OF THE PEOPLE OF HONG**
10 **KONG.**

11 (a) IN GENERAL.—Not later than 90 days after the
12 date of the enactment of this Act, and as appropriate
13 thereafter, the President shall exercise all powers granted
14 by the International Emergency Economic Powers Act (50
15 U.S.C. 1701 et seq.) to the extent necessary to block or
16 prohibit all transactions in property and interests in prop-
17 erty of each foreign person described in subsection (b) that
18 the President determines has attempted to undermine the
19 autonomy, basic liberties, and human rights of the people
20 of Hong Kong, if such property and interests in property
21 are in the United States, come within the United States,
22 or are or come within the possession or control of a United
23 States person.

24 (b) FOREIGN PERSONS DESCRIBED.—A foreign per-
25 son described in this subsection is—

1 (1) a national of the People’s Republic of
2 China;

3 (2) an entity owned or controlled by the Gov-
4 ernment of the People’s Republic of China; or

5 (3) an individual who is a member of the board
6 of directors, an executive officer, or a senior official
7 of an entity described in paragraph (2).

8 (c) INAPPLICABILITY OF NATIONAL EMERGENCY RE-
9 QUIREMENT.—The requirements of section 202 of the
10 International Emergency Economic Powers Act (50
11 U.S.C. 1701) shall not apply for purposes of this section.

12 **SEC. 7. EXCEPTIONS; WAIVERS.**

13 (a) EXCEPTION FOR HUMANITARIAN ASSISTANCE.—
14 The requirement to impose sanctions under sections 5 and
15 6 shall not apply with respect to activities to provide hu-
16 manitarian assistance to the people of Hong Kong.

17 (b) EXCEPTION FOR INTELLIGENCE ACTIVITIES.—
18 The requirement to impose sanctions under sections 5 and
19 6 shall not apply with respect to activities subject to the
20 reporting requirements under title V of the National Secu-
21 rity Act of 1947 (50 U.S.C. 3091 et seq.), or any author-
22 ized intelligence activities of the United States.

23 (c) EXCEPTION RELATING TO IMPORTATION OF
24 GOODS.—

1 (1) IN GENERAL.—The authorities and require-
2 ments to impose sanctions authorized under this Act
3 shall not include the authority or requirement to im-
4 pose sanctions on the importation of goods.

5 (2) GOOD DEFINED.—In this subsection, the
6 term “good” means any article, natural or manmade
7 substance, material, supply or manufactured prod-
8 uct, including inspection and test equipment, and ex-
9 cluding technical data.

10 (d) WAIVER.—The President may waive the imposi-
11 tion of sanctions under section 5 or 6 with respect to a
12 foreign person if the President determines and reports to
13 the appropriate congressional committees that the waiver
14 is—

15 (1) in the national security interests of the
16 United States; or

17 (2) necessary to prevent undue economic harm
18 to the people of Hong Kong.

19 **SEC. 8. IMPLEMENTATION; REGULATIONS; PENALTIES.**

20 (a) IMPLEMENTATION.—The President may exercise
21 all authorities provided to the President under sections
22 203 and 205 of the International Emergency Economic
23 Powers Act (50 U.S.C. 1702 and 1704) to carry out this
24 Act.

1 (b) REGULATORY AUTHORITY.—The President shall
2 issue such regulations, licenses, and orders as are nec-
3 essary to carry out this section.

4 (c) PENALTIES.—A person that violates, attempts to
5 violate, conspires to violate, or causes a violation of section
6 5 or 6 or any regulation, license, or order issued to carry
7 out either such section shall be subject to the penalties
8 set forth in subsections (b) and (c) of section 206 of the
9 International Emergency Economic Powers Act (50
10 U.S.C. 1705) to the same extent as a person that commits
11 an unlawful act described in subsection (a) of that section.

○