

# United States Senate

WASHINGTON, DC 20510

November 29, 2018

The Honorable Michael R. Pompeo  
Secretary of State  
U.S. Department of State  
2201 C Street, NW  
Washington, DC 20520

Dear Secretary Pompeo,

Ahead of the Group of Twenty (G20) summit in Buenos Aires, from November 30 to December 1, 2018, we write to express our concern over the People's Republic of China's imposition of exit bans on United States citizens. We urge you to raise this issue on the sidelines of the summit with your counterparts in the Chinese government, or at the next available diplomatic opportunity, and to insist that all levels of the Chinese government adhere to due process and the Vienna Convention on Consular Relations<sup>1</sup> and the U.S.-China Consular Convention. The Chinese government must provide clear information to the U.S. government and affected U.S. citizens about its efforts to resolve their exit bans and enable them to return to the United States.

As the U.S. government's recently released Integrated Country Strategy for the United States Mission to China notes, "Chinese law enforcement and security services employ extra-judicial means against U.S. citizens without regard to international norms." Exit bans "are sometimes used to prevent U.S. citizens who are not themselves suspected of a crime from leaving China as a means to pressure their relatives or associates who are wanted by Chinese law enforcement in the United States."<sup>2</sup> Chinese government agencies have imposed exit bans on a number of U.S. citizens in the context of criminal charges and private commercial disputes.

Article 28 of the Exit and Entry Administration Law of the People's Republic of China forms the basis for the Chinese government's authority to impose exit bans on foreign nationals. Article 28 lists circumstances under which "foreigners shall not be allowed to exit China," including the broad category, "[o]ther circumstances in which exit shall not be allowed in accordance with laws or administrative regulations." The law assigns responsibility for administering exit/entry matters to the Ministry of Public Security and the Ministry of Foreign Affairs, with public security organs responsible for administering "the stay and residence of foreigners."<sup>3</sup>

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<sup>1</sup> [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=III-6&chapter=3&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=III-6&chapter=3&clang=_en)

<sup>2</sup> <https://www.state.gov/f/strategies/ics/index.htm>

<sup>3</sup> <http://cs.mfa.gov.cn/zlbg/flfg/crjxg/t1054650.shtml>

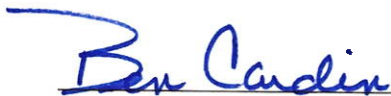
As you know, in its employment of exit bans against U.S. citizens, China appears to be in violation of Article 35 of the U.S.-China Consular Convention. Under Article 35, if a U.S. national is “placed under any form of detention,” China’s government must notify the relevant U.S. consulate within four days. Also under Article 35, a U.S. consular officer is entitled to “be informed of the reasons for which said national has been arrested or detained in any manner.”<sup>4</sup> China also appears to be in violation of Article 36 of the Vienna Convention on Consular Relations. Many U.S. citizens are not made aware of a ban on their exit until they attempt to leave China. Once U.S. citizens are made aware of the ban, Chinese authorities provide little to no information - either to the U.S. citizen or to U.S. consular officials - regarding the nature of the ban, which Chinese government entity is responsible for the ban, and what processes and procedures must be followed to resolve the dispute(s) related to the ban. The apparent extra-judicial application of exit bans to U.S. citizens presents a serious human rights concern that violates due process rights that U.S. citizens are entitled to under international law.

We are encouraged by the Administration raising this issue during the inaugural meeting of the U.S.-China Law Enforcement and Cybersecurity Dialogue (LECD) in 2017 and more recently during the U.S.-China Diplomatic and Security Dialogue. We urge the Department of State, in coordination with the Department of Justice and the Department of Homeland Security, to work with Chinese counterparts to convene a second meeting of the LECD as soon as possible and to place this issue high on its agenda. We urge you both to continue to use diplomatic levers at your disposal to compel the Chinese government to adhere to the Vienna Convention on Consular Relations and the U.S.-China Consular Convention, and to operate with increased transparency and good faith to resolve exit bans against U.S. citizens.

The U.S. government’s Integrated Country Strategy for China, referenced above, lists as the third goal for the U.S. mission to China, “Promote and protect the health, safety, and welfare of American citizens.” Challenging China’s extrajudicial use of exit bans against U.S. citizens is a key priority for advancing that goal.

Thank you for your consideration of this important issue.

Sincerely,



Benjamin L. Cardin  
United States Senator



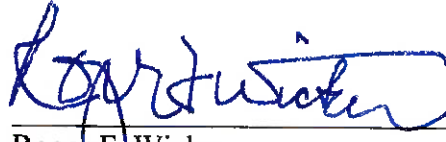
Marco Rubio  
United States Senator

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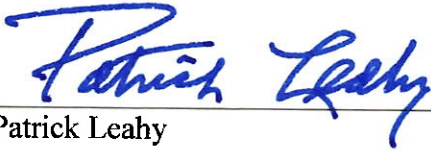
<sup>4</sup> <https://travel.state.gov/content/travel/en/legal/travel-legal-considerations/intl-treaties/Bilateral-Consular-Conventions/Chinese-Treaty.html>



Edward J. Markey  
United States Senator



Roger F. Wicker  
United States Senator



Patrick Leahy  
United States Senator



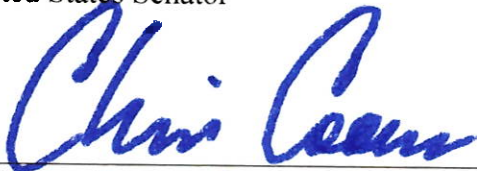
Ted Cruz  
United States Senator



Amy Klobuchar  
United States Senator



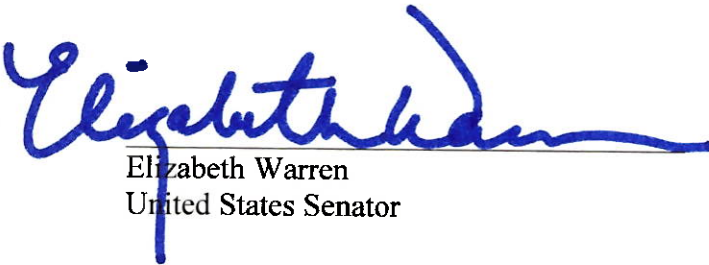
Jeanne Shaheen  
United States Senator



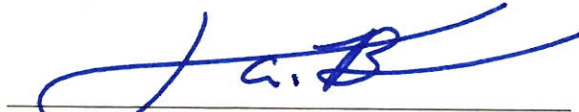
Christopher A. Coons  
United States Senator



Tammy Baldwin  
United States Senator



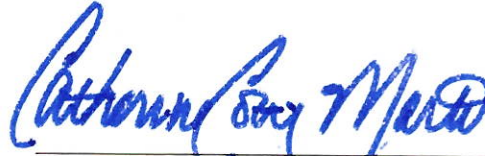
Elizabeth Warren  
United States Senator



Cory A. Booker  
United States Senator



Tammy Duckworth  
United States Senator



Catherine Cortez Masto  
United States Senator

cc: Deputy Attorney General Rod Rosenstein