



HOUSE OF COMMONS  
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CANADA

# **SAFE HAVEN IN CANADA: SPECIAL IMMIGRATION AND REFUGEE MEASURES ARE URGENTLY NEEDED FOR THE PEOPLE OF HONG KONG**

**Report of the Standing Committee on Citizenship and  
Immigration**

**Salma Zahid, Chair**

**JUNE 2021  
43<sup>rd</sup> PARLIAMENT, 2<sup>nd</sup> SESSION**

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### **Reports from committees presented to the House of Commons**

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

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# **THE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION**

has the honour to present its

## **SEVENTH REPORT**

Pursuant to its mandate under Standing Order 108(2), the committee has studied the special immigration and refugee measures for the people of Hong Kong and has agreed to report the following:



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## SUMMARY

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Canada's close relationship with Hong Kong predates the establishment of Hong Kong as a Special Administrative Region of the People's Republic of China (PRC) in 1997. In addition to deep historical ties, there are large communities of Canadians living in Hong Kong and of Hong Kongers residing in Canada. The people of Canada and of Hong Kong also share common values, such as the respect for the rule of law, human rights and individual freedoms.

Canada watched attentively the pro-democracy protests in Hong Kong against the government of the PRC. In the last year, Canada expressed concern about the PRC's aggressive response to these protests and its imposition of a new national security law in Hong Kong. Most recently, the Government of Canada announced special immigration and foreign affairs measures to address growing risks for Hong Kong pro-democracy activists in Hong Kong and in Canada.

In its report, the House of Commons Standing Committee on Citizenship and Immigration (the Committee) examines the immigration measures recently introduced by the Government of Canada to help pro-democracy activists and other Hong Kongers who need or want to leave their city, provided that they qualify under existing pathways or recently graduated university, and have secured a job in Canada with approval under the new work permits. The report highlights witness testimony about potential gaps in these measures and in existing immigration and refugee policy, suggesting potential improvements. It also raises concerns about how Hong Kongers fleeing their home can find a safe haven in Canada through various Canadian immigration and refugee pathways.

The Committee makes 15 recommendations to Immigration, Refugees and Citizenship Canada (IRCC). The Committee urges the department to issue study permits with relaxed criteria, to extend the young professionals Working Holiday work permit for Hong Kongers and to review the criteria for the open three-year work permit. It asks the department to adopt an inclusive approach and create a pathway to permanent residence based on more humanitarian considerations, while ensuring a pathway to permanent residence for Hong Kong residents who complete their studies in Canada. In addition, the Committee stresses that all Hong Kongers should be exempted from non-essential pandemic travel restrictions.

For Hong Kongers at risk of imminent persecution, the Committee calls for a resettlement pathway, for the use of a Temporary Resident Visa, and for the designation

of non-governmental organizations to identify, certify and aid Hong Kongers at risk. The Committee requests that IRCC acknowledge the urgency of the Hong Kong situation and open these new refugee pathways before Hong Kong implements new exit ban legislation on 1 August 2021. Taking an inclusive lens, the Committee asks the department to facilitate family reunification for Hong Kongers, while developing expedited pathways to permanent residence for Hong Kongers and facilitating the return of former Canadian citizens. Lastly, the Committee calls on IRCC to investigate security concerns at Visa Application Centres located in China and to terminate the contract with VFS Global in China.

# LIST OF RECOMMENDATIONS

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*As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.*

## **Issuing Study Permits with Relaxed Criteria**

### **Recommendation 1**

**That Immigration, Refugees and Citizenship Canada issue study permits to Hong Kong applicants who have been accepted in a study program at an institution with a COVID-19 readiness plan, regardless of their age. .... 21**

## **Extending the Working Holiday Work Permit for Hong Kongers**

### **Recommendation 2**

**That Immigration, Refugees and Citizenship Canada undertake to extend the young professionals Working Holiday work permit for Hong Kongers to two years and to include persons up to 35 years of age. .... 22**

## **Extending the Criteria for the Open Three-Year Work Permit**

### **Recommendation 3**

**That Immigration, Refugees and Citizenship Canada extend the criteria for eligibility for the open three-year work permit to include all persons with a minimum of 60 credits or its equivalent of post-secondary education regardless of when this education was completed..... 23**

## **Adopting an Inclusive Approach to a Pathway to Permanent Residence Based on Work Experience**

### **Recommendation 4**

**That Immigration, Refugees and Citizenship Canada adopt an inclusive approach and develop a pathway to permanent residence for former Hong Kong residents based on a broad range of work experience, and requiring minimal language and education levels. .... 25**

**Ensuring a Pathway to Permanent Residence for Hong Kong Residents who Complete their Studies in Canada**

**Recommendation 5**

**That Immigration, Refugees and Citizenship Canada quickly develop and implement a pathway to permanent residence for Hong Kong residents who complete their post-secondary studies in Canada, ensuring that this pathway remains available to all Hong Kong residents studying at designated learning institutions..... 25**

**Developing a Resettlement Pathway for Hong Kongers**

**Recommendation 6**

**That Immigration, Refugees and Citizenship Canada create a temporary public policy to grant refugee status to pro-democracy activists within Hong Kong and within third countries, which will enable their resettlement to Canada..... 33**

**Using a Temporary Resident Visa to Welcome Hong Kongers at Risk**

**Recommendation 7**

**That Immigration, Refugees and Citizenship Canada implement a temporary public policy to bring Hong Kongers at risk to Canada on temporary resident visas regardless of their age..... 33**

**Designating Organizations to Identify, Certify and Aid Hong Kongers at Risk of Persecution**

**Recommendation 8**

**That Immigration, Refugees and Citizenship Canada partner with designated non-governmental organizations to identify Hong Kong pro-democracy activists in need of safe haven in Canada on a temporary resident visa, to certify Hong Kong refugees, and to facilitate both classes of Hong Kongers at risk to travel from Hong Kong to third countries and to Canada, and redevelop a refugee stream similar to the former source country program..... 33**

**Acknowledging the Urgency of the Hong Kong Situation**

**Recommendation 9**

**That Immigration, Refugees and Citizenship Canada acknowledge the urgency of the situation and that, given the exit ban will take effect on 1 August 2021, the Minister immediately respond with an expansion of humanitarian measures to the current immigration and refugee measures to support the people of Hong Kong. .... 34**

**Exempting at Risk Hong Kongers from Non-Essential Pandemic Travel Restrictions**

**Recommendation 10**

**That Immigration, Refugees and Citizenship Canada issue travel documents to Hong Kongers at risk of persecution and exempt them from non-essential pandemic travel restrictions, following all public health guidelines. .... 34**

**Developing an Expedited Pathway to Permanent Residence for Hong Kongers**

**Recommendation 11**

**That Immigration, Refugees and Citizenship Canada implement a temporary public policy to create an expedited pathway to permanent residence for Hong Kongers in Canada or abroad before the exit ban comes into effect on 1 August 2021. .... 37**

**Facilitating Family Reunification for Hong Kongers**

**Recommendation 12**

**That Immigration, Refugees and Citizenship Canada promote its family reunification stream to family members of Hong Kongers looking to come to Canada and create a temporary public policy to also include extended family members of Canadian citizens and of pro-democracy activists living in Canada. .... 39**

**Facilitating the Return of Former Canadian Citizens**

**Recommendation 13**

**That Immigration, Refugees and Citizenship Canada develop a temporary public policy to allow former Canadian citizens to return to Canada as permanent residents. .... 41**

**Investigating Security Concerns at Visa Application Centres Located in China**

**Recommendation 14**

**That Immigration, Refugees and Citizenship Canada, in partnership with Public Services and Procurement Canada, and, as needed, other departments and agencies, investigate Canada’s Visa Application Centres in China, especially in regard to personal data leaks due to employee coercion, and that it tables its findings with the Committee. .... 46**

**Terminating the VFS Contract in China**

**Recommendation 15**

**That Immigration, Refugees and Citizenship Canada terminate its contract with VFS Global in China and bring the services back in-house at Canadian diplomatic missions in China. .... 47**



# SAFE HAVEN IN CANADA: SPECIAL IMMIGRATION AND REFUGEE MEASURES ARE URGENTLY NEEDED FOR THE PEOPLE OF HONG KONG

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## INTRODUCTION

Canada has strong diplomatic, historical and people-to-people relations with Hong Kong. The Government of Canada is represented by an embassy in Beijing and by consulates general in four different cities, including Hong Kong.<sup>1</sup> There are places of commemoration in Hong Kong for Canadian soldiers who defended Hong Kong against the Japanese invasion during the Second World War. While 300,000 Canadians are estimated to live in Hong Kong, Canada is home to about 1,769,000 people who have Chinese ethnic roots, a term which refers to the ethnic or cultural origins of a person's ancestors. Canada also had, in 2016, almost 209,000 immigrants who declared Hong Kong as their place of birth and over 649,000 immigrants from China (excluding Hong Kong and Macao). Combined, these two groups represent 11% of all immigrants counted as part of the 2016 Census.<sup>2</sup>

On 20 October 2020, the House of Commons Standing Committee on Citizenship and Immigration (henceforth the Committee) agreed to “examine special immigration and refugee measures in order to provide a safe haven to the people of Hong Kong facing persecution under the new National Security Law.”<sup>3</sup> On 17 February 2020, the Committee also agreed to look at potential interference in Canada's Visa Application Centres located in China.<sup>4</sup>

During Committee testimony in the fall of 2020 on the effect of COVID-19, and in the Committee's report entitled *[Immigration in the Time of COVID-19: Issues and Challenges](#)*,

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1 Government of Canada, *[Canada-Hong Kong Relations](#)*.

2 An ancestor is usually more distant than a grandparent. Statistics Canada, “[Canada \[Country\] and Canada \[Country\] \(table\)](#),” *Census Profile, 2016 Census*, Statistics Canada Catalogue no. 98-316-X2016001, Ottawa, 29 November 2017. More recent data has not yet been collected, as the [2021 Census](#) will take place during the summer of 2021.

3 House of Commons, Standing Committee on Citizenship and Immigration (CIMM), *[Minutes of Proceedings](#)*, 2<sup>nd</sup> session, 43<sup>rd</sup> Parliament, 20 October 2020.

4 CIMM, *[Minutes of Proceedings](#)*, 17 October 2020.



numerous witnesses spoke about the situation in Hong Kong. From their testimony, it was clear that the erosion of the fundamental rights and liberties in Hong Kong is severe and deteriorating, and that urgent action from the Canadian government is necessary.

In the first and second sessions of the 43<sup>rd</sup> Parliament, the House of Commons Special Committee on Canada-China Relations also heard testimony about Hong Kong and released a report in February 2021 entitled *The Breach of Hong Kong's High Degree of Autonomy: A Situation of International Concern*. The Committee agreed to adopt relevant witness testimony from that study for its own report, which focuses on the immigration aspect of Canada's response to the situation in Hong Kong.<sup>5</sup>

Between 27 January 2021 and 10 March 2021, the Committee heard from 25 witnesses, as well as from the Minister of Immigration, Refugees and Citizenship and department officials. The Committee also received several written submissions.

Chapter 1 of this report provides contextual information about the current situation in Hong Kong to better evaluate the Government of Canada's response. Chapter 2 describes the special measures announced by Immigration, Refugees and Citizenship Canada (IRCC) and addresses witness testimony about how to improve them. Chapter 3 expands on the humanitarian measures Canada could take for the people of Hong Kong in need of protection, whereas Chapter 4 looks at the particular situation of people with Canadian nationality residing in Hong Kong. Chapter 5 examines testimony about individuals' safety concerns and about national security. The final chapter highlights the foreign affairs measures that Canada could take in response to the unfolding situation in Hong Kong.

## CHAPTER 1: CONTEXT

The Hong Kong Special Administrative Region (SAR) of the People's Republic of China (China or PRC) consists of a mainland area and more than 200 islands located in China, Eastern Asia. As seen below in Figure 1, Hong Kong is on a peninsula in the south-east of China, surrounded by islands in the South China Sea. Hong Kong has no other land bordering countries.

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5 CIMM, *Minutes of Proceedings*, 1 February 2021.

**Figure 1 – Map of China, including Hong Kong**



Source: Map prepared by Library of Parliament, Ottawa, 2019, using data from Natural Earth, [1:10m Cultural Vectors and 1:10m Physical Vectors](#), version 4.1.0. The following software was used: Esri, ArcGIS Pro, version 2.4.3.

This chapter provides some brief context by retracing the history of Hong Kong as a British colony for more than 150 years and by summarizing the current situation in Hong Kong.

## Historical Perspective

China ceded Hong Kong to the British Empire as a colony in 1842 following the British victory over China in the first Anglo-Chinese War, also known as the Opium War. The current territory of Hong Kong dates from 1898, after the British Empire gained control from China of the northern part of the Kowloon Peninsula and additional islands under a



99-year lease. This British colonial arrangement led to the return of Hong Kong to China in 1997.<sup>6</sup>

When the whole territory of Hong Kong was transferred to China on 1 July 1997, Hong Kong maintained separate governing and economic systems from that of mainland China<sup>7</sup> under the principle of "one country, two systems." As such, Hong Kong's government structure is known as a "special administrative region" of the People's Republic of China. The *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China* (the Basic Law) serves as its constitution.<sup>8</sup> Hong Kong has its own legislature – the Legislative Council – as well as its own legal and economic systems. On the other hand, China is responsible for the region's national defence and foreign relations.

### One Country, Two Systems

In 1984, the United Kingdom (U.K.) and China reached an agreement on the parameters for Hong Kong's 1997 handover and its future governance, called the *Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong* (the Joint Declaration). It states that Hong Kong "will enjoy a high degree of autonomy" and that the "current social and economic systems in Hong Kong will remain unchanged, and so will the life-style."<sup>9</sup> The Joint Declaration is valid for 50 years, from 1997 until 2047. It entered into force on 27 May 1985 and was registered by the two governments at the United Nations (UN) on 12 June 1985.

The Joint Declaration also states that the "Government of the Hong Kong Special Administrative Region will be composed of local inhabitants. The chief executive will be appointed by the Central People's Government on the basis of the results of elections or consultations to be held locally."<sup>10</sup> The Government of the Hong Kong SAR will protect by law "[r]ights and freedoms, including those of the person, of speech, of the press, of

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6 Richard C. Bush, "[One: The Hong Kong Hybrid](#)," *Hong Kong in the Shadow of China: Living with the Leviathan*, Brookings Institution Press, 11 October 2016, pp. 6–7.

7 The term "mainland China" refers to the geographical area under the jurisdiction of the People's Republic of China (China or PRC), excluding the Special Administrative Regions of Hong Kong and Macau.

8 "[Chapter II: Relationship between the Central Authorities and the Hong Kong Special Administrative Region](#)," *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*.

9 United Nations, "[Treaties and international agreements registered or filed and recorded with the Secretariat of the United Nations](#)," *Treaty Series*, vol. 1399, 1985, pp. 61-62.

10 *Ibid.*, p. 61.

assembly, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief.”<sup>11</sup> The Joint Declaration specifies that the Government of the Hong Kong SAR also maintain public order and regulate entry into and exit from Hong Kong.

### British National (Overseas)

As part of the arrangements for the handover of sovereignty of Hong Kong, the U.K. created the British National (Overseas) status (BN(O)). This status is a specific nationality designation for people who were British Overseas Territories Citizens (previously known as British dependent territories citizens) in Hong Kong and who registered for the BN(O) status before 1 July 1997. It entitles them to a British passport and consular services from the U.K.<sup>12</sup> Before 1 July 1997, Hong Kong residents had a British dependent territories citizenship, but “were also already considered to be Chinese nationals, under Chinese nationality law.”<sup>13</sup>

According to historical records, “most eligible people did apply in time [for the BN(O) status], with 3.3 million people having registered by 1 March 1997.”<sup>14</sup> Currently, out of the 7.5 million residents of Hong Kong, an estimated 2.9 million have BN(O) status.<sup>15</sup>

### Current Situation in Hong Kong

Since its reversion to China in 1997, Hong Kong has seen several democratization efforts from its residents to preserve and build on the governance principles outlined in the Joint Declaration and in the Basic Law. These efforts were often in response to threats to Hong Kong’s autonomy from mainland China.<sup>16</sup> Witnesses, such as Nathan Law, who was

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11 Ibid., p. 62.

12 GOV.UK, “[British national \(overseas\)](#),” *Types of British nationality*.

13 United Kingdom (UK), Melanie Gower, “Hong Kong British National (Overseas) visa,” Briefing Paper, Number CBP 8939, House of Commons Library of Parliament, 15 January 2021. The briefing paper is accessible through Melanie Gower, “[Hong Kong British National \(Overseas\) visa](#),” Research Briefing, House of Commons Library, UK Parliament, 15 January 2021.

14 Ibid.

15 Ibid.

16 Vancouver Society in Support of Democratic Movement, [Written Brief](#), 17 February 2021, p. 1; House of Commons Special Committee on Canada-China Relations (CACN), [Evidence](#), 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1200 (Cherie Wong, Executive Director, Alliance Canada Hong Kong).



a Hong Kong student leader in 2014, and is a former legislator and an activist, recounted some of these more recent intertwined struggles to the Committee.<sup>17</sup>

One of the big democratization efforts was the 2014 Umbrella Movement, which mainly grew out of dissatisfaction with the manner and the pace of democratization in Hong Kong. The government of the PRC had proposed changes to Hong Kong's electoral system that would have allowed Hong Kong people to vote for their chief executive, a reform that some, like the Vancouver Society in Support of Democratic Movement, argue had been promised in the Joint Declaration and in the Basic Law.<sup>18</sup> However, the proposal included that a pro-Beijing nominating committee would review and put forward a small group of candidates for the election. The failure to reach an agreement on the reforms to Hong Kong's system for choosing its chief executive led to the election of Carrie Lam in 2017 according to the existing electoral system, whereby the position is determined by a 1,200-member committee, most of the members of which are considered pro-China.<sup>19</sup>

One of the recent threats to Hong Kong's autonomy was the introduction in the Hong Kong Legislative Council, in April 2019, of a bill that would have allowed people in Hong Kong who were charged with certain crimes to be extradited to mainland China for trial.<sup>20</sup> This led to large-scale demonstrations. Although the bill was suspended in mid-June 2019 and then formally withdrawn in October 2019, protests continued. As the government of the PRC characterized the protests as riots, the Hong Kong's police increasingly met protestors with violence and riot control agents, such as tear gas.<sup>21</sup> As explained by Dominic Barton, Ambassador Extraordinary and Plenipotentiary of Canada to the People's Republic of China, protestors had a broad range of messages for both the Hong Kong and Beijing governments.<sup>22</sup> Many within the protest movement demanded police and government accountability, but also the preservation of Hong Kong's way of life and autonomy. Others called for universal suffrage in the elections of Hong Kong's

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17 CIMM, [Evidence](#), 17 February 2021, 1820 (Nathan Law, Hong Kong Activist, Former Legislator, As an Individual). See also CACN, [Evidence](#), 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1200 (Cherie Wong).

18 Vancouver Society in Support of Democratic Movement, [Written Brief](#), 17 February 2021, p. 3.

19 House of Commons, Standing Committee on Foreign Affairs and International Development, [Hong Kong's Democratic Future](#), 2<sup>nd</sup> Session, 41<sup>st</sup> Parliament, June 2015.

20 CACN, [Evidence](#), 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1200 (Cherie Wong).

21 Ibid., 1150 (Davin Wong, Director, Youth Engagement and Policy Initiatives, Alliance Canada Hong Kong).

22 CACN, [Evidence](#), 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 5 February 2020, 1940 (Dominic Barton, Ambassador Extraordinary and Plenipotentiary of Canada to the People's Republic of China, Embassy of Canada to the People's Republic of China).

chief executive and Legislative Council. Some also denounced income inequality, affordability and lack of opportunity.

These democratization efforts and the protest movements led to the elections of Hong Kong's district councils that were held on 24 November 2019, which were conducted according to universal suffrage.<sup>23</sup> Pro-democracy candidates won an estimated 350 of the 452 seats, securing 17 of Hong Kong's 18 local districts.<sup>24</sup> Elections for Hong Kong's Legislative Council were scheduled for September 2020 but, at the end of July 2020, officials postponed them to September 2021, citing the pandemic.

### National Security Law

On 30 June 2020, China's National People's Congress Standing Committee (NPCSC) passed a national security law (NSL) for the Hong Kong SAR, bypassing the territory's Legislative Council. The NSL criminalizes four broadly defined categories of offences: secession, subversion, organization and perpetration of terrorist activities, and collusion with a foreign country or with external elements to endanger national security in relation to Hong Kong. By establishing a national security agency in Hong Kong that will operate outside of the jurisdiction of local authorities, the government in Beijing now exercises jurisdiction over alleged violations of the law, and prosecutes and adjudicates cases either in Hong Kong or in mainland China. Samuel Chu, Founding and Managing Director at the Hong Kong Democracy Council, stated that "this is one step further than just national security or extradition. This is now de facto Chinese enforcing and charging and investigating 'crimes' directly with Chinese security forces, rather than having any involvement in the Hong Kong government."<sup>25</sup> The law applies to alleged violations committed by anyone, anywhere in the world.<sup>26</sup>

Michael Davis, Professor at the Weatherhead East Asia Institute at Columbia University, explained that the NSL has higher status than the Basic Law of Hong Kong. "[U]nder Chinese national law and legislation, the last law enacted—as is common in many countries—takes precedence over any conflicts with previous laws. The Basic Law of

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23 Ibid.

24 CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1245 (Akram Keram, National Endowment for Democracy).

25 CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 13 August 2020, 1355 (Samuel M. Chu, Founding and Managing Director, Hong Kong Democracy Council).

26 Ibid., 1245; CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 13 August 2020, 1235, 1315 (Annie Boyajian, Director of Advocacy, Freedom House); CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1235 (Alex Neve, Secretary General, Amnesty International Canada).



Hong Kong is an older law; it is more general, and the national security law is more specific.”<sup>27</sup> However, “[c]ontrary to China’s own national law and legislation and Hong Kong’s practice, there was no consultation with the public. This law was just imposed on Hong Kong.”<sup>28</sup>

Professor Davis clarified that the NSL is superior to all local laws, and effectively includes

the Basic Law of Hong Kong, which is the foundation of rights protection in Hong Kong. The national security law says explicitly that the courts cannot really review it. It’s not subject to constitutional review, and it’s not subject to review under the Basic Law, so if a judge receives this law in court, he has to pretty much apply it, and the Standing Committee of the National People’s Congress has the ultimate power to interpret it.<sup>29</sup>

Even though Hong Kong has an independent judiciary to review decisions and preserve the rule of law, the NSL provides that the chief executive of Hong Kong shall draft a list of selected judges that can hear cases under the NSL. Professor Davis expressed the view that this “choice would be influenced by the expectation of how those judges would behave.”<sup>30</sup> In addition, “the Hong Kong Government or the National Security Department of Hong Kong itself could request for the Central People’s Government to exercise jurisdiction over cases that are considered ‘complex’, ‘serious’ or a ‘major threat’ to national security.”<sup>31</sup>

Jerome A. Cohen, Professor and Faculty Director Emeritus of the U.S.-Asia Law Institute at the New York University School of Law, added that “the vaunted independent legal system in Hong Kong has been truncated” by the NSL – national security offences will now be tried before special judges and without a jury.<sup>32</sup> He stated:

[T]he people of Hong Kong have long known that there is only political justice in the mainland under the Communist regime. That’s what they fear. That’s what they fought back. Now the new national security law, as you know, has brought extradition to Hong Kong. Indeed, it’s brought a whole administration of criminal justice from the mainland to Hong Kong. You don’t have to be extradited now to be under the control of the

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27 CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 13 August 2020, 1110 (Michael C. Davis, Professor, Weatherhead East Asia Institute, Woodrow Wilson International Center, Columbia University).

28 Ibid.

29 Ibid.

30 Ibid.

31 Hong Kong Watch, *Testimony of Joey Siu*, Brief, 1 January 2021, p. 1.

32 CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 13 August 2020, 1300 (Jerome A. Cohen, Professor and Faculty Director Emeritus, U.S.-Asia Law Institute, New York University School of Law).

security police of the mainland government. They've come to Hong Kong. That's the principal accomplishment of the national security law.<sup>33</sup>

Professor Cohen concluded that the aim of the NSL is to install a repressive regime in Hong Kong. He explained:

The central government's security authorities will decide whether they want to transport Jimmy Lai [publisher of the Apple Daily], and even Samuel Chu [Hong Kong-born American activist and community organizer who founded the Hong Kong Democracy Council], if they can get their hands on him, and not only try them in Hong Kong but also transfer them to the mainland for long incommunicado detention, potential torture, denial of access to counsel, inability to meet with family or friends and then a trial before a Communist-dominated court.<sup>34</sup>

Witnesses underlined their concern that the NSL is undermining Hong Kong's autonomy, eroding the principles of the Joint Declaration and suppressing the legally guaranteed rights of Hong Kongers under the Basic Law. They argued that, overall, the NSL infringes on the rights of Hong Kong residents and is repressive.<sup>35</sup> For some, this is China's forceful way to show that it considers the situation in Hong Kong as a strictly internal affair.<sup>36</sup>

### *The National Security Law and its Impact on the Democratic Process*

While Hong Kong officials have cited the pandemic as a reason to postpone the legislative elections of September 2020, witnesses expressed a belief that the postponement was an overall effort to stifle the pro-democracy movement and on-going demonstrations. Although the election was postponed and no related activities were to take place as per the government in Beijing, Hong Kongers still participated in the Legislative Council election primaries in July 2020, with "over 600,000 citizens [at] the

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33     Ibid.

34     Ibid.

35     CIMM, *Evidence*, 17 February 2021, 1820 (Joey Siu, Associate, Hong Kong Watch); CIMM, *Evidence*, 1 February 2021, 1650 (Dominic Tse, Pastor, As an individual); Alliance Canada Hong Kong, *Policy Brief*, 1 February 2021; Hong Kong Watch, *Brief*, 1 January 2021; CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 13 August 2020, 1110 (Michael C. Davis), 1125 (Benedict Rogers, Co-founder and Chair, Hong Kong Watch), 1235 (Annie Boyajian), 1300 (Jerome A. Cohen); CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1245 (Akram Keram), 1140 (Davin Wong), 1145 (Cherie Wong), 1235 (Alex Neve), 1115 (Gloria Fung, President and Coordinator of a cross-Canada platform for 16 organizations concerned about Hong Kong, Canada-Hong Kong Link), 1255 (Sophie Richardson, China Director, Human Rights Watch); CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 6 August 2020, 1750 (David Mulroney, Former Ambassador of Canada to the People's Republic of China, As an Individual); CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 5 February 2020, 2020 (Dominic Barton).

36     CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 13 August 2020, 1355 (Samuel M. Chu); CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1245 (Akram Keram).



polls to support pro-democracy candidates.”<sup>37</sup> Avvy Yao-Yao Go, Clinic Director of the Chinese and Southeast Asian Legal Clinic, informed the Committee that, “[o]n January 5, [2021], the Hong Kong police arrested 50 former lawmakers and activists for allegedly violating the national security law. Their only crime was to organize unofficial election primaries for Hong Kong.”<sup>38</sup>

Mr. Chu stated that “[i]n the following days [of the adoption of the NSL], the government disqualified 12 separate pro-democracy candidates from the [Legislative Council] election.”<sup>39</sup> On 11 November 2020, Beijing passed a resolution allowing Hong Kong’s government to dismiss politicians deemed a threat to national security, and, the same day, four Hong Kong lawmakers were dismissed. All opposition members resigned in solidarity.

Benedict Rogers, Co-founder and Chair of Hong Kong Watch, declared that “[t]he subsequent disqualification of pro-democracy candidates for the Legislative Council’s elections scheduled for September, and then the postponement for a year of those very elections, disenfranchises Hong Kong people and shuts down one of the few remaining avenues they have had for some level of freedom of expression.”<sup>40</sup>

### *The National Security Law and Human Rights Violations*

In addition to worry about the impact of the NSL on democracy in Hong Kong, concerned witnesses highlighted human rights violations committed by the Beijing and Hong Kong governments since the large-scale demonstrations started in 2019 – violations that only intensified with the implementation of the NSL in 2020. Mr. Chu stated that “[s]ince the implementation of the national security law, we have already seen the direct impact it has had on crackdowns in Hong Kong, specifically with regard to the rights of free speech, free press, free assembly and protest.”<sup>41</sup> According to Benedict Rogers, “[a]mong the many human rights violations to highlight, the widespread, consistent, disproportionate and indiscriminate brutality by the Hong Kong Police over the past 12 months in particular requires particular attention.”<sup>42</sup>

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37 CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1245 (Akram Keram).

38 CIMM, *Evidence*, 27 January 2021, 1815 (Avvy Yao-Yao Go, Clinic Director, Chinese and Southeast Asian Legal Clinic).

39 CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 13 August 2020, 1245 (Samuel M. Chu).

40 *Ibid.*, 1125 (Benedict Rogers).

41 *Ibid.*, 1245 (Samuel M. Chu).

42 *Ibid.*, 1200 (Benedict Rogers).

Eric Li, Vice-President of Canada-Hong Kong Link, estimated that “[s]ince June 2019, more than 10,000 people, with ages ranging from 11 to 80-plus, have been arrested. They came from all walks of life and sacrificed their livelihoods to participate in the protests.”<sup>43</sup> Many have suffered police brutality and political persecutions. Ted Hui Chi-fung, a former Hong Kong legislator, shared with the Committee his own personal experiences of being “tear-gassed, pepper-sprayed and pinned down to the ground, and prosecuted in court for ridiculous reasons.”<sup>44</sup>

On 1 July 2020, the first arrests under the NSL occurred. Ten people were charged with offences, including a 15-year-old girl waving a Hong Kong independence flag. According to Human Rights Watch, the NSL was used four times to charge persons at pro-democracy protests in the month of July 2020.<sup>45</sup> Mabel Tung, Chair of the Vancouver Society in Support of Democratic Movement, informed the Committee that, since July 2020,

[t]housands were arrested and hundreds were imprisoned [for protesting the NSL]. In 2021, the mass arrests have intensified. Pro-democracy legislators, democracy activists, a media tycoon and a human rights lawyer are on the list. Some are held, being denied bail. Many Hong Kongers who participated in the movement fear they will face the same fate as the student protesters in Tiananmen Square 32 years ago.<sup>46</sup>

Brian Wong, Reverend and representative of the Mustard Seeds Hong Kong Concern Group, emphasized to the Committee that this situation affects larger groups of people. “Apart from the pro-democracy activists, it looks like certain sectors have been the targets of crackdowns by the Hong Kong SAR government. These include social workers, journalists, teachers, medical workers and pastors.”<sup>47</sup>

Ms. Go shared with the Committee that “activists [are] being detained for up to 36 hours in a frigid room as part of the intimidation tactics. Their arrests also allow the police to access the activists’ personal contact information and seize their travel documents.”<sup>48</sup> As

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43 CIMM, [Evidence](#), 27 January 2021, 1820 (Eric Li, Vice-President, Canada-Hong Kong Link).

44 CIMM, [Evidence](#), 17 February 2021, 1900 (Ted Hui Chi-fung, As an Individual).

45 Immigration and Refugee Board of Canada, Research Directorate, [China and Hong Kong: Political situation and treatment of protesters, implementation of national security law and treatment of protesters sent to mainland China \(2019- October 2020\)](#), Response to Information Request No. ZZZ200321.E, 15 September 2020.

46 CIMM, [Evidence](#), 17 February 2021, 1815 (Mabel Tung, Chair, Vancouver Society in Support of Democratic Movement).

47 CIMM, [Evidence](#), 1 February 2021, 1630 (Brian Wong, Reverend, Mustard Seeds Hong Kong Concern Group).

48 CIMM, [Evidence](#), 27 January 2021, 1815 (Avvy Yao-Yao Go).



indicated by Joey Siu from Hong Kong Watch, the National Security Law criminalizes even the most trivial forms of protest and any kind of disobedience to the Chinese Communist regime. It is not only Hong Kong activists who will very likely become a subject of the National Security Law, but also any Canadians in Hong Kong or here in Canada who have ever expressed support to pro-democracy struggle in Hong Kong.<sup>49</sup>

The situation in Hong Kong is still unfolding but is escalating quickly. Mr. Hui informed the Committee in February 2021 that the Hong Kong legislature is considering Immigration (Amendment) Bill 2020, which will impose direct exit restrictions on any Hong Kong resident without the need to publicly give any reasons.<sup>50</sup> Since the testimony of the witnesses, the exit ban has now passed and will take effect on 1 August 2021.

Considering the overall on-going situation in Hong Kong, Charles Burton, Senior Fellow at the Macdonald-Laurier Institute, recommended to the Committee that Canada act on its international obligation “to protect the people of Hong Kong who have been betrayed by the Government of China’s disavowal of its international commitment to the one country, two systems policy and 50 years of no change when the sovereignty of Hong Kong transferred from Britain to China in 1997.”<sup>51</sup> Cherie Wong of Alliance Canada Hong Kong agreed: “Canada has a responsibility beyond the people but to [the Sino-British] agreement” – the Joint Declaration.<sup>52</sup>

In the same vein, Lobsang Sangay from the Central Tibetan Administration recommended to the Special Committee on Canada-China Relations that Members of Parliament pass “a motion in the Canadian Parliament saying that the one country, two systems of Hong Kong should prevail and that violations of it should be condemned,” and that the Government of Canada pass “a resolution in the UN Human Rights Council, on Hong Kong,” all the while “having coordinated efforts with other countries to do similar things in their parliaments.”<sup>53</sup>

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49 Hong Kong Watch, *Testimony of Joey Siu*, Brief, 1 January 2021, p. 1.

50 CIMM, *Evidence*, 17 February 2021, 1900 (Ted Hui Chi-fung). See Legislative Council of the Hong Kong Special Administrative Region of the People’s Republic of China, *Bills*.

51 CIMM, *Evidence*, 17 February 2021, 1855 (Charles Burton, Senior Fellow, Centre for Advancing Canada's Interests Abroad, Macdonald-Laurier Institute, As an Individual).

52 CIMM, *Evidence*, 1 February 2021, 1705 (Cherie Wong).

53 CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 6 August 2020, 1555 (Lobsang Sangay, Sikyong-President, Central Tibetan Administration).

## CHAPTER 2: IMMIGRATION MEASURES

In light of the growing concerns for the people of Hong Kong, in November 2020, alongside existing immigration pathways to Canada, new economic immigration initiatives were announced.<sup>54</sup> IRCC developed Hong-Kong specific measures in the temporary and permanent resident streams for youth in Hong Kong and Hong Kongers in Canada.<sup>55</sup> Nicole Giles, Associate Assistant Deputy Minister of Operations, IRCC, told the Committee that “[w]e are prioritizing all the applications coming from Hong Kong, and we have set up our system so our officers are able to identify those applications in the system and pull them out.”<sup>56</sup> However, as indicated by Alliance Canada Hong Kong, “Canadian policy advisors had previously recommended that Hong Kongers seeking refuge in Canada apply through programs like express entry or student visas. These programs primarily cater to the well-educated, financially-established upper-middle class.”<sup>57</sup>

In addition, Hong Kong Watch highlighted that, since 2019, 10,000 protesters have been charged for “rioting” and “unlawful assembly.”<sup>58</sup> The Minister of Immigration, Refugees and Citizenship, the Hon. Marco Mendicino, told the Committee that pro-democracy activists should be reassured regarding admissibility to Canada:

No Hong Kongers will be prevented from coming to Canada or claiming asylum because they have participated in peaceful protests. This is true whether they did so before or after the introduction of the national security law. We strongly support the right to peaceful protest, freedom of expression and freedom of assembly.<sup>59</sup>

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54 Please note that under the Canada-Quebec Accord, Quebec selects its economic immigration. Temporary residents such as students must obtain a Certificat d’acceptation du Québec (CAQ) and permanent residents must obtain a Certificat de sélection du Québec (CSQ).

55 Immigration, Refugees and Citizenship Canada (IRCC), [Canada announces immigration measures supporting Hong Kong residents and Canadians in Hong Kong](#), News release, 12 November 2020.

56 CIMM, [Evidence](#), 10 March 2021, 1810 (Nicole Giles, Associate Assistant Deputy Minister, Operations, Department of Citizenship and Immigration).

57 Alliance Canada Hong Kong, [Policy Brief](#), 1 February 2021, p. 3.

58 Hong Kong Watch, [Testimony of Joey Siu](#), Brief, 1 January 2021, p. 4.

59 CIMM, [Evidence](#), 10 March 2021, 1700 (Hon. Marco Mendicino, Minister of Immigration, Refugees and Citizenship).



However, Ms. Go noted: “The Hong Kong police could and would, without warning and without cause, arrest anyone on suspicion of violating the national security law.”<sup>60</sup> She further explained that

the way arrests are being done right now, they are not going to tell you that you are being arrested because you peacefully participated in a protest. They are going to tell you that you breached the national security law based on treason, sedition and so on. The charge itself is not peaceful protest; the charge is treason or sedition.<sup>61</sup>

## For Residents of Hong Kong: Study and Work Permits

### Study Permits

IRCC announced expedited processing for study permit applications from Hong Kong residents in November 2020. Natasha Kim, Associate Assistant Deputy Minister, Strategic and Program Policy, IRCC, told the Committee that the number of study permit applications received up until November 2020 had doubled when comparing to the same period in 2019.<sup>62</sup> Several issues were raised in regard to study permits as a solution for pro-democracy activists. As indicated by Ms. Go,

the new open work permit is being offered only to recent university graduates. The criteria would exclude high school students and those who are not university-educated. Just to put things into perspective, neither Joshua Wong nor Agnes Chow, two of the most prominent activists, would qualify, because they have not yet finished university, nor would a number of Hong Kong activists working in blue-collar jobs who have managed to come here to seek asylum. ... By failing to recognize the protestors’ diverse demographic and educational backgrounds, these measures send the wrong message that Canada’s commitment to protect them is limited only to those who will bring immediate economic benefits to our country.<sup>63</sup>

More than one witness explained to the Committee that post-secondary education in Canada was beyond the means of many pro-democracy youth.<sup>64</sup> Witnesses pointed out that many protesters may not have finished high school yet, and others have been refused a study permit because they were middle-aged and the visa officer did not

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60 CIMM, [Evidence](#), 27 January 2021, 1815 (Avvy Yao-Yao Go).

61 Ibid., 1900.

62 Ibid., 1755 (Natasha Kim, Associate Assistant Deputy Minister, Strategic and Program Policy, Department of Citizenship and Immigration).

63 Ibid., 1815 (Avvy Yao-Yao Go).

64 Ibid., 1835; Alliance Canada Hong Kong, [Policy Brief](#), 1 February 2021, p. 3.

believe they would leave at the end of their studies.<sup>65</sup> Witnesses suggested that students should be able to earn a living while studying, and that the policy should not only allow the wealthy to receive study permits.<sup>66</sup>

In light of the testimony heard, the Committee recommends:

### **Issuing Study Permits with Relaxed Criteria**

#### **Recommendation 1**

**That Immigration, Refugees and Citizenship Canada issue study permits to Hong Kong applicants who have been accepted in a study program at an institution with a COVID-19 readiness plan, regardless of their age.**

### **International Experience Canada**

In November 2020, IRCC also resumed processing International Experience Canada (IEC) applications for Hong Kong youth, a program that had been on pause due to COVID-19.<sup>67</sup> Individuals aged 18 to 30 may receive a youth working holiday visa valid for one year. There are no specific academic requirements, but applicants must submit biometrics and police certificates, and possess private health insurance. While Canada has COVID-19 restrictions at the border, an individual requires a valid job offer to be able to travel to Canada.<sup>68</sup> Hong Kong residents participating in the program may not travel with dependents and must have a return ticket.

As a measure to assist Hong Kong youth, witnesses compared Canada's working holiday program to that of Australia. Ms. Siu recommended that the youth working holiday visa be extended to two years and to include persons up to 35 years of age.<sup>69</sup>

As such, the Committee recommends:

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65 CIMM, *Evidence*, 27 January 2021, 1845 (Eric Li); Canada-Hong Kong Link, *Subject: Community response to the Minister's announcement on November 12, 2020, to introduce a new program commonly referred to as the Life Boat Scheme, that exclusively benefits the Hong Kong residents*, 27 January 2021, pp. 2-4.

66 CIMM, *Evidence*, 1 February 2021, 1700 (Dominic Tse), 1650 (Brian Wong).

67 IRCC, *Measures supporting Hong Kong Residents, including youth, to come to Canada*, Background, 12 November 2020.

68 IRCC, *International Experience Canada: Who can Apply*, Hong Kong Residents.

69 CIMM, *Evidence*, 17 February 2021, 1835 (Joey Siu).



## Extending the Working Holiday Work Permit for Hong Kongers

### Recommendation 2

**That Immigration, Refugees and Citizenship Canada undertake to extend the young professionals Working Holiday work permit for Hong Kongers to two years and to include persons up to 35 years of age.**

### The Three-Year Open Work Permit

On 8 February 2021, IRCC implemented a new program allowing Hong Kong residents to apply for an open work permit that may be valid for a period of up to three years.<sup>70</sup> An open work permit allows individuals to enter Canada without being tied to a specific employer.<sup>71</sup> For this initiative, an individual must have completed post-secondary education within the last five years, regardless of where the diploma was obtained.<sup>72</sup> The completed post-secondary diploma program must be of at least two years in duration. An accompanying spouse or common-law partner, as well as dependent children, can obtain work permits or study permits, if applicable.

Overall, witnesses levelled several criticisms at this initiative. The first criticism concerns the criteria for post-secondary education. Ms. Tung highlighted that some individuals are in longer university programs than two-year college diplomas. She told the Committee that many university students who have participated in the recent protests have been subjected to police brutality, and that it is crucial for this program to apply to their situation. Her organization recommends that current university students who have completed 60 credits – which is equivalent to two years of study – should be able to apply for this open work permit.<sup>73</sup>

The second criticism is aimed at the requirement for the post-secondary education to be within the last five years: this time period is too narrow.<sup>74</sup> Mr. Hui, a former pro-

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70 IRCC, [Canada Launches Hong Kong Pathway that Will Attract Recent Graduates and Skilled Workers with Faster Permanent Residency](#), News release, 4 February 2021.

71 IRCC, Glossary, “[open work permit](#).” Due to COVID-19, only persons with a valid job offer are exempt from travel restrictions and can enter Canada.

72 IRCC, [Canada Launches Hong Kong Pathway that Will Attract Recent Graduates and Skilled Workers with Faster Permanent Residency](#), News release, 4 February 2021.

73 CIMM, [Evidence](#), 17 February 2021, 1830 (Mabel Tung).

74 Ibid.

democracy legislator who had to flee Hong Kong, told the Committee that he completed his post-secondary education in Canada 18 years ago, and is in his early thirties. He said:

Many young protesters who now urgently need a safe place away from Hong Kong are in their twenties and thirties, just like me. They'll be barred from the scheme totally, even with having Canadian qualifications.<sup>75</sup>

Mr. Hui also indicated that Martin Lee, known as the father of democracy in Hong Kong, would also not qualify.<sup>76</sup>

A third criticism is that, more broadly, the open work permit criteria should address the diversity of Hong Kong pro-democracy activists in terms of age and of educational and occupational backgrounds.<sup>77</sup>

Finally, some witnesses told the Committee the work permit should be valid for a period of five years, similar to Australia's initiative, rather than just three years.<sup>78</sup>

The Committee has heard the various appeals for an initiative that would be more inclusive and therefore recommends:

### **Extending the Criteria for the Open Three-Year Work Permit**

#### **Recommendation 3**

**That Immigration, Refugees and Citizenship Canada extend the criteria for eligibility for the open three-year work permit to include all persons with a minimum of 60 credits or its equivalent of post-secondary education regardless of when this education was completed.**

### **Measures for Hong Kongers in Canada**

The first measure that IRCC announced in November 2020 for Hong Kongers in Canada was the temporary waiver of fees for the renewal of their status (student, worker or visitor).<sup>79</sup> Witnesses told the Committee, however, that temporary status in Canada was

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75 Ibid., 1900 (Ted Hui Chi-fung).

76 Ibid., 1905.

77 CIMM, *Evidence*, 27 January 2021, 1820 (Eric Li); CIMM, *Evidence*, 27 January 2021, 1815 (Avvy Yao-Yao Go).

78 CIMM, *Evidence*, 27 January 2021, 1820 (Eric Li); CIMM, *Evidence*, 1 February 2021, 1630 (Brian Wong).

79 IRCC, *Measures supporting Hong Kong Residents, including youth, to come to Canada*, Backgrounder, 12 November 2020.



not sufficient because Hong Kongers studying or working will be subject to political persecution when they return to Hong Kong because of their involvement in the pro-democracy movement.<sup>80</sup> The Vancouver Society in Support of Democratic Movement summarized the situation in its brief: “They face an uncertain future. They fear returning to Hong Kong only to be arrested or barred from leaving the city or remaining in Canada without proper status.”<sup>81</sup>

In November 2020, the government also announced that in 2021 two new pathways to permanent residence (PR) for people of Hong Kong in Canada would be developed:

- one for former residents of Hong Kong who have one year of eligible Canadian work experience, and meet some criteria such as language and education levels; and
- another for Hong Kong residents who complete their studies in Canada, which is a direct application with no work experience required.<sup>82</sup>

Witnesses provided the Committee with their thoughts on these pathways to PR. Starus Chan of Alliance Canada Hong Kong urged the government to clarify these measures and provide more details.<sup>83</sup> Robert Falconer of the same organization specified that it was necessary to know who was eligible and when the programs will roll out.<sup>84</sup>

In relation to the pathway centered on one year of Canadian work experience, the organization Canada-Hong Kong Link suggested in its brief that the education level criterion could be a high school certificate or a one-year certificate program at a designated learning institute in Canada.<sup>85</sup>

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80 CIMM, [Evidence](#), 1 February 2021, 1630 (Brian Wong); CACN, [Evidence](#), 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1140 (Gloria Fung).

81 Vancouver Society in Support of Democratic Movement, [Written brief](#), 17 February 2021, p. 3.

82 IRCC, [Measures supporting Hong Kong Residents, including youth, to come to Canada](#), Backgrounder, 12 November 2020.

83 CIMM, [Evidence](#), 16 November 2020, 1735 (Starus Chan, Alliance Canada Hong Kong).

84 Ibid., 1735 (Robert Falconer, Research Associate, Immigration and Refugee Policy, School of Public Policy, University of Calgary, Alliance Canada Hong).

85 Canada-Hong Kong Link, [Subject: Community response to the Minister's announcement on November 12, 2020, to introduce a new program commonly referred to as the Life Boat Scheme, that exclusively benefits the Hong Kong residents](#), 27 January 2021, p. 5. A designated learning institution is a school in Canada that a student must be accepted at before they can qualify for a study permit (as of June 1, 2014). Consult the [designated learning institutions list](#) for schools at the post-secondary level.

Guillaume Cliche-Rivard of the Association québécoise des avocats et avocates en droit de l'immigration provided the Committee with several reasons why granting PR quickly is better for Canada:

[I]t is certain that coming to the country with a temporary status and waiting a long time for permanent residence is difficult for everyone. Everyone must make a living, be quickly integrated and have the assurance that they will remain safe. ... The more quickly permanent residence is granted, the more quickly people can know they can be safe with their family.

This could also avoid the doubling of the number of procedures such as applications for visas, TRPs or permanent residence. The quicker the residence confirmation and the more those people can work and contribute to society, the better it is for Canada.<sup>86</sup>

The Committee heard that IRCC is developing pathways to PR for former Hong Kong residents living in Canada.<sup>87</sup> However, these programs were announced in November 2020, and, in early April 2021, no further details were available. As indicated by Mr. Hui, those measures may come too late given the pending exit ban legislation.<sup>88</sup> Since the testimony of the witnesses, the exit ban has been adopted and will come into force on 1 August 2021. As such, the Committee recommends:

### **Adopting an Inclusive Approach to a Pathway to Permanent Residence Based on Work Experience**

#### **Recommendation 4**

**That Immigration, Refugees and Citizenship Canada adopt an inclusive approach and develop a pathway to permanent residence for former Hong Kong residents based on a broad range of work experience, and requiring minimal language and education levels.**

### **Ensuring a Pathway to Permanent Residence for Hong Kong Residents who Complete their Studies in Canada**

#### **Recommendation 5**

**That Immigration, Refugees and Citizenship Canada quickly develop and implement a pathway to permanent residence for Hong Kong residents who complete their post-**

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86 CIMM, *Evidence*, 27 January 2021, 1835 (Guillaume Cliche-Rivard, President, Association québécoise des avocats et avocates en droit de l'immigration).

87 The Committee received a brief recommending ways to better integrate permanent residents from Hong Kong. Mimi Lee, Torontonians HongKongers Action Group, *Brief*, March 2021.

88 CIMM, *Evidence*, 17 February 2021, 1900 (Ted Hui Chi-fung).



**secondary studies in Canada, ensuring that this pathway remains available to all Hong Kong residents studying at designated learning institutions.**

### CHAPTER 3: HUMANITARIAN MEASURES AND GAPS

Many witnesses testified that the Government of Canada ultimately should understand and address the Hong Kong situation as a humanitarian crisis, rather than simply as an immigration or economic opportunity.<sup>89</sup> The Committee heard that – since the government of the PRC imposed the national security law – Hong Kong police have increasingly subjected pro-democracy legislators, human rights lawyers, and pro-democracy activists to indiscriminate arrest, constant surveillance (if released on bail), mistreatment in prison<sup>90</sup> and political persecution.<sup>91</sup> In his written brief to the Committee, Richard S. Soo argued that the PRC has a history of similar persecution of dissidents in its treatment of survivors of Tiananmen square, human rights activists, religious groups, and Uyghurs.<sup>92</sup>

In the November 2020 announcement of IRCC’s new Hong Kong immigration measures, IRCC highlighted that the Government of Canada continues to offer humanitarian pathways to Canada for Hong Kongers at risk of persecution: either refugee resettlement or “inland” asylum.<sup>93</sup> Hong Kongers who have fled Hong Kong to another country abroad may apply as refugees for resettlement under Canada’s resettlement programs, such as the Private Sponsorship of Refugees Program and the Government-Assisted Refugees Program. By contrast, those Hong Kong residents who have crossed into Canada already or in the future may make “inland” asylum claims to the Immigration and Refugee Board of Canada (IRB). IRCC handles the resettlement pathway as humanitarian policy; the department can set the number of refugees that it accepts. By contrast, the IRB assesses inland asylum claims based on the *Immigration and Refugee Protection Act* (IRPA) as

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89 CIMM, [Evidence](#), 16 November 2020, 1755 (Robert Falconer); CIMM, [Evidence](#), 30 November 2020, 1610 (Avvy Yao-Yao Go); CIMM, [Evidence](#), 27 January 2021, 1815 (Avvy Yao-Yao Go); CIMM, [Evidence](#), 17 February 2021, 1920 (Ted Hui Chi-fung) CIMM, [Evidence](#), 22 February 2021, 1645 (Henry Chan, Co-director, Saskatchewan Stands with Hong Kong); CIMM, [Evidence](#), 1 February 2021, 1635 (Dominic Tse).

90 Vancouver Society in Support of Democratic Movement, [Written Brief](#), 17 February 2021, p. 1; Richard S. Soo, [Proposal: a Temporary Procedure for a Remote Refugee Application](#), Brief, 3 February 2021, pp. 1-2; Alliance Canada Hong Kong, [Policy Brief](#), 1 February 2021, p. 3.

91 CIMM, [Evidence](#), 27 January 2021, 1820 (Eric Li); Alliance Canada Hong Kong, [Policy Brief](#), 1 February 2021, p. 2.

92 Richard S. Soo, [Proposal: a Temporary Procedure for a Remote Refugee Application](#), Brief, 3 February 2021.

93 IRCC, [Canada announces immigration measures supporting Hong Kong residents and Canadians in Hong Kong](#), News release, 12 November 2020; IRCC, [Measures to support Hong Kong residents, including youth, to come to Canada](#).

well as the Government of Canada's international legal obligations, which must, under the 1951 *United Nations Convention on the Status of Refugees* (Refugee Convention), provide a mechanism to hear refugee claims.

In November 2020, IRCC also announced that otherwise eligible Hong Kongers – who had made an unsuccessful inland asylum claim to the IRB between 13 November 2019 and 12 November 2020 – will not have to wait the normal 12-month period to apply for a pre-removal risk assessment (PRRA).<sup>94</sup> Failed applicants for inland asylum claims can submit a PRRA directly to the IRCC as a form of appeal. The PRRA can highlight new facts that were not presented to the IRB because the facts were unknown at the time – including a worsening human rights situation.

## Gaps in the Resettlement and Asylum Frameworks

Several witnesses testified, however, that, for Hong Kongers, resettlement and asylum pathways are largely blocked, because travel is extremely difficult under present political, national security and pandemic conditions.<sup>95</sup> The obstacles to refugee protection are most clear in the case of resettlement. To be eligible for resettlement in Canada as a refugee, applicants must apply from a country outside their country of nationality or habitual residence and not be able to find protection there. Under current international law, applicants cannot apply from within Hong Kong. As Ms. Kim explained, “[a]s per the 1951 refugee convention and Canadian legislation, foreign nationals need to be outside their home country to be eligible for our resettlement program ... we cannot accept asylum claims at the mission of the country of alleged persecution.”<sup>96</sup> She testified that this position is “consistent with the international legal framework that takes into account state sovereignty.”<sup>97</sup>

Nevertheless, the necessary cross from Hong Kong to another country to make a resettlement claim is increasingly challenging. Most simply, geography makes travel to non-Chinese countries difficult. As Alex Neve, former Secretary-General at Amnesty International Canada and now Senior Fellow at the Graduate School of Public and International Affairs, University of Ottawa, highlighted, “the geography of Hong Kong is

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94 IRCC, *Changes to the pre-removal risk assessment for Hong Kong*, Notice, 12 November 2020.

95 CIMM, *Evidence*, 30 November 2020, 1610 (Avvy Yao-Yao Go); CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 13 August 2020, 1230 (Avvy Yao-Yao Go); CIMM, *Evidence*, 1 February 2021, 1635 (Dominic Tse); CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1240, 1850 (Alex Neve); Alliance Canada Hong Kong, *Policy Brief*, 1 February 2021, p. 4.

96 CIMM, *Evidence*, 27 January 2021, 1750 (Natasha Kim).

97 Ibid.



such that, unlike many refugee situations around the world, they clearly cannot escape across the most immediate border, that being China.”<sup>98</sup> Other routes to Taiwan, the Philippines and further abroad require travel by air or sea. More recently, pandemic restrictions have made leaving Hong Kong even more arduous. The written brief for Alliance Canada Hong Kong argued, moreover, that “[t]he Hong Kong government has implemented various suppressive policies under the guise of COVID-19, including authoritarian lockdowns and compulsory biometric collection through COVID-19 tests.”<sup>99</sup>

Witnesses pointed out that the Hong Kong government also used the NSL to confiscate travel documents, and implement exit bans for some pro-democracy activists.<sup>100</sup> Indeed, this power to block exit may increase: Mr. Hui warned the Committee that the Hong Kong Legislative Council’s Immigration (Amendment) Bill 2020 will give Hong Kong authorities the power to prevent any person from leaving Hong Kong by barring them from boarding planes or boats.<sup>101</sup> As such, many Hong Kongers most in need of refugee resettlement cannot apply, because they cannot cross a border. They are prevented by law and policy from making a resettlement claim in Hong Kong but cannot reach a foreign country to make that a legitimate claim.

Even those who reach neighbouring countries often cannot make a claim for resettlement, because many of these countries lack a United Nations High Commissioner for Refugee (UNHCR) office to refer their refugee claim to Canadian visa officers. In resettlement cases – unless the government designates another body, or the host country has an adjudication mechanism – a UNHCR office must certify that claimants fall within the Refugee Convention definition as refugees. Then the UNHCR or a private sponsor must refer the certified refugee to IRCC officials stationed in these countries for consideration. But witnesses pointed out that Taiwan and other nearby non-Chinese countries have no UNHCR offices, and cannot certify refugee status.<sup>102</sup> As Mr. Li, of

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98 CACN, [Evidence](#), 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1240 (Alex Neve).

99 Alliance Canada Hong Kong, [Policy Brief](#), 1 February 2021, p. 2.

100 *Ibid.*, p. 3.

101 CIMM, [Evidence](#), 17 February 2021, 1900 (Ted Hui Chi-fung). Among other provisions, the bill amends section 6A of the Immigration Ordinance to allow the Secretary for Security to make regulations “(a) to provide for the supply to the Director of information or data relating to a carrier, its passengers or members of its crew, as may be specified in the regulations; and (b) to empower the Director to direct that a passenger or a member of the crew of a carrier may or may not be carried on board the carrier” (section 2.3). In its submission to the Hong Kong Legislative Council, the Hong Kong Bar Association argues that this will effectively give the Director power to prevent anyone from leaving Hong Kong. See, Hong Kong Bar Association, [Further Submission of the Hong Kong Bar Association on the Immigration \(Amendment\) Bill 2020 In respect of Clause 3 of the Bill](#), 2 February 2021.

102 Richard S. Soo, [Proposal: a Temporary Procedure for a Remote Refugee Application](#), Brief, 3 February 2021; CIMM, [Evidence](#), 27 January 2021, 1820 (Eric Li); CIMM, [Evidence](#), 1 February 2021, 1725 (Cherie Wong).

Canada-Hong Kong Link, described the effect of the need for UNHCR referral outside of Hong Kong, “it’s like the chicken and the egg: We will never get the refugees because there’s nobody to certify the refugees in Hong Kong or a nearby country. There’s no UNHCR there, and the Canadian consulate staff are not [certifying refugees].”<sup>103</sup> The result is Hong Kongers stranded outside of Hong Kong with no access to refugee status and to possible resettlement.

### Inland Asylum Framework

The same geographical and political difficulties surrounding leaving Hong Kong for nearby countries also make traveling to Canada for inland asylum claims difficult. Just as foreign nationals at risk of persecution must travel to a third country to make a resettlement application, asylum claimants must travel to Canada to make an inland asylum claim. As Roula Eatrdes, the Deputy Chairperson of the Refugee Protection Division of the IRB, explained, the “IRB only has jurisdiction to adjudicate refugee claims and appeals made within Canada.”<sup>104</sup> Ms. Go noted that “a couple of people ... were lucky enough that they left Hong Kong before the lockdown, so they are now able to apply for asylum here [in Canada].”<sup>105</sup> Indeed, Ms. Eatrdes noted that, overall, between 1 January 2020 and 9 February 2021, the Refugee Protection Division of the IRB, “finalized 28 asylum claims from residents of Hong Kong with fewer than 20 claims still pending.”<sup>106</sup> Despite these successes, however, witnesses testified that many Hong Kongers at risk of persecution cannot reach Canada to make a claim. In addition to the lockdown measures in Hong Kong, confiscated documents, and exit controls, these applicants must contend with Canada’s non-essential travel ban, which – as one witness noted<sup>107</sup> – currently does not allow foreign nationals to enter Canada by air to make an asylum claim.<sup>108</sup> If non-Canadian Hong Kong residents are not already in Canada, they cannot legitimately fly here. They also cannot make an inland Canadian asylum claim from within Hong Kong.

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103 CIMM, *Evidence*, 27 January 2021, 1820 (Eric Li).

104 CIMM, *Evidence*, 22 February 2021, 1735 (Roula Eatrdes, Deputy Chairperson, Refugee Protection Division, Immigration and Refugee Board).

105 CIMM, *Evidence*, 30 November 2020, 1550 (Avvy Yao-Yao Go).

106 CIMM, *Evidence*, 22 February 2021, 1710 (Roula Eatrdes).

107 Alliance Canada Hong Kong, *Policy Brief*, 1 February 2021.

108 Government of Canada, *Coronavirus disease (COVID-19): Who can travel to Canada – Citizens, persons registered under Canada’s Indian Act, permanent residents, foreign nationals and refugees*.



## Alternative Refugee Pathways

The Committee heard repeatedly from witnesses that the minister should use his discretionary powers to issue temporary public policies to complement or temporarily replace the existing resettlement and asylum channels for Hong Kongers. These powers are outlined in IRPA.<sup>109</sup> As Ms. Siu put it most explicitly, “[w]e ... ask the Canadian government to exercise the legislative authority from the Immigration and Protection Act of 2002 [*sic*] to issue Ministerial Instructions when necessary to cover the [asylum application] loopholes.”<sup>110</sup>

Drawing from the minister’s discretionary powers, a first group of witnesses proposed alternative pathways to resettlement or inland asylum in Canada for people in “refugee-like situations”<sup>111</sup> that start within Hong Kong or within a third country. Mr. Cliche-Rivard and Mr. Law urged the government to, as Mr. Cliche-Rivard put it, “assess the possibility of granting refugee protection directly to individuals in Hong Kong who may need protection quickly so that they can come to Canada as soon as possible.”<sup>112</sup> More strongly, several witnesses argued that Canada create a dedicated asylum pathway that enables Hong Kongers to start their applications at Canadian embassies and consulates within, and outside of, Hong Kong.<sup>113</sup> Two of these witnesses cited the precedent of related Canadian programs that – in partnership with non-governmental organization (NGO) partners – have helped LGBTQ2 individuals at risk to leave their home countries for third countries, and then apply for resettlement and inland asylum in Canada.<sup>114</sup> Alliance Canada Hong Kong also cited Canada’s past use of IRPA’s former provisions for “Source Country Class” designations. Repealed as a permanent policy in 2011, these

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109 [Immigration and Refugee Protection Act](#), S.C. 2001, c. 27, s. 25.2.

110 Hong Kong Watch, [Testimony of Joey Siu](#), Brief, 1 January 2021, p. 3.

111 Alliance Canada Hong Kong, [Policy Brief](#), 1 February 2021.

112 CIMM, [Evidence](#), 27 January 2021, 1825 (Guillaume Cliche-Rivard); CIMM, [Evidence](#), 17 February 2021, 1840 (Nathan Law).

113 Witnesses differed in where they proposed the asylum pathway would begin. Some witnesses testified that IRCC should limit these applications to Canadian embassies and consulates within Hong Kong (CIMM, [Evidence](#), 17 February 2021, 1840 (Nathan Law)). Others argues that they the asylum pathway should begin within and outside of Hong Kong (Alliance Canada Hong Kong, [Policy Brief](#), 1 February 2021, p. 4.; CIMM, [Evidence](#), 1 February 2021, 1725 (Brian Wong)). A final group maintained that the pathways should be available outside of Hong Kong (Hong Kong Watch, [Testimony of Joey Siu](#), Brief, 1 January 2021, p. 4; CIMM, [Evidence](#), 27 January 2021, 1820 (Eric Li)).

114 Alliance Canada Hong Kong, [Policy Brief](#), 1 February 2021, p. 4; Hong Kong Watch, [Testimony of Joey Siu](#), Brief, 1 January 2021 p. 4. See, Rainbow Railroad, [How Can I Get Out?](#); Rainbow Refugee, [Seeking Protection](#).

provisions allowed Canada to accept refugees for resettlement who still resided in a flexible list of “at risk” countries.<sup>115</sup>

In more explicit resettlement language, Ms. Tung suggested in her written brief that Canada should “appoint a designated commissioner within the Canadian Consulate in Hong Kong to handle, with utmost confidentiality, cases from political asylum seekers, including vetting, background checking, [and] evidence gathering to establish the validity of their claims.”<sup>116</sup> For Ms. Tung, such a commissioner would be supported in this vetting and quasi-resettlement certification by organizations “which have direct connections with Hong Kong civil society,” such as the Vancouver Society in Support of Democratic Movement.<sup>117</sup> Mr. Li suggested identifying refugees from Hong Kong for Canada “from abroad,” and then using “the existing refugee sponsorship program to sponsor Hong Kongers to come [to Canada for] resettlement.”<sup>118</sup> Mr. Hui also argued that IRCC should recognize Hong Kong pro-democracy student activists as a class of Convention refugees, and offer them “offshore protection visa routes so they know that there will be a safe place for them to stay for a longer term before they land in Canada” and resettle.<sup>119</sup>

Looking to the inland asylum system, by contrast, Mr. Soo argued, in his written brief, that Canada should directly extend the use of the inland Canadian asylum system and the IRB to applicants within Hong Kong. Given the acute risk and the fact that inland asylum seekers currently make their claims online, Mr. Soo proposed that “Canada should establish on a temporary basis [a] policy whereby Hong Kong Dissidents would be allowed to apply for refugee status even though they are not presently on Canadian soil. ... That is to extend the present “inland claim” procedures to those Hong Kongers who are at risk even though they are in Hong Kong or Taiwan etc.”<sup>120</sup> As with other proposals, he suggested that IRCC also issue travel documents, partner with a designated NGO agency to help verify asylum claims, and permit successful applicants to either come to Canada on their own or be funded through private sponsorship.<sup>121</sup>

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115 Alliance Canada Hong Kong, *Policy Brief*, 1 February 2021, p. 4. For the repeal of the “Source Country Class Provisions,” see *Regulations Amending the Immigration and Refugee Protection Regulations*, SOR/2011-222.

116 Vancouver Society in Support of Democratic Movement, *Written Brief*, 17 February 2021, p. 2.

117 Ibid.

118 CIMM, *Evidence*, 27 January 2021, 1840 (Eric Li).

119 CIMM, *Evidence*, 17 February 2021, 1900 (Ted Hui Chi-fung).

120 Richard S. Soo, *Proposal: a Temporary Procedure for a Remote Refugee Application*, Brief, 3 February 2021, p. 1.

121 Ibid.



A second group of witnesses focused on getting quickly to Canada Hong Kongers at imminent risk who are in Hong Kong or stranded outside of it – with or without these Hong Kongers obtaining refugee or asylum status. Canada should, as Mr. Neve put it, “make greater use of humanitarian avenues for granting temporary resident permits and travel documents, if necessary – in other words, refugee protection in all but name.”<sup>122</sup> These witnesses argued that, in addition to filling a gap in refugee policy, this approach provides Canada speed and flexibility to address the rapidly changing levels of risk of Hong Kong pro-democracy activists.<sup>123</sup> Indeed, Ms. Go testified that the general risk experienced by some activists – for instance, those carded by authorities but not yet arrested or targeted – may not fit a Refugee Convention definition of imminent persecution. Even if their situation can rapidly deteriorate, they may not clearly qualify as refugees or for inland asylum at a given moment. As in Ms. Tung’s resettlement-oriented proposal, Ms. Go argued that NGOs with knowledge of conditions on the ground in Hong Kong could help identify at risk activists in need of rapid protection and temporary residence in Canada.<sup>124</sup>

Within this group advocating for temporary resident visas for those at risk, several witnesses proposed a further step. In some proposals, these Hong Kongers at risk could then claim asylum once safe within Canada’s borders.<sup>125</sup> In other proposals, the next step would be receiving or finalizing resettlement status and support through private refugee sponsorship from NGOs.<sup>126</sup> Most broadly, Dominic Tse, Pastor, proposed:

[G]iving a lot of people work permits so that they can come here to a safe Canada and apply for whatever they want to do. ... we can have them come in, using a work permit for three years, and then they can apply. The advantage of it is that it provides security in a shorter time so that people can come and then start applying to the process. With this thinking, we don’t need to change the immigration policy or system.<sup>127</sup>

In this approach, Hong Kongers at risk could then apply to the refugee or immigration systems once they were safe in Canada. In a separate proposal, Ms. Go suggested to the Committee that the government may be able, unofficially, to help vulnerable pro-democracy activists leave the country. She cited the precedent of the Government

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122 CIMM, [Evidence](#), 17 February 2021, 1850 (Alex Neve).

123 Ibid.; CIMM, [Evidence](#), 27 January 2021, 1825 (Guillaume Cliche-Rivard); CIMM, [Evidence](#), 16 November 2020, 1555 (Avvy Yao-Yao Go).

124 CIMM, [Evidence](#), 27 January 2021, 1855 (Avvy Yao-Yao Go).

125 CIMM, [Evidence](#), 1 February 2021, 1725 (Brian Wong).

126 CIMM, [Evidence](#), 27 January 2021, 1825 (Guillaume Cliche-Rivard); CIMM, [Evidence](#), 16 November 2020, 1555 (Avvy Yao-Yao Go).

127 CIMM, [Evidence](#), 1 February 2021, 1635 (Dominic Tse).

of Canada's unofficial measures to get students at risk of persecution out of China following the PRC's 1989 crackdown on student activists and the Tiananmen Square protests and massacre.<sup>128</sup>

Considering the gaps in Canadian refugee policy, and the diverse and changing needs of pro-democracy activists at risk in Hong Kong and in third countries who cannot obtain refugee status from the UNHCR, the Committee recommends:

### **Developing a Resettlement Pathway for Hong Kongers**

#### **Recommendation 6**

**That Immigration, Refugees and Citizenship Canada create a temporary public policy to grant refugee status to pro-democracy activists within Hong Kong and within third countries, which will enable their resettlement to Canada.**

### **Using a Temporary Resident Visa to Welcome Hong Kongers at Risk**

#### **Recommendation 7**

**That Immigration, Refugees and Citizenship Canada implement a temporary public policy to bring Hong Kongers at risk to Canada on temporary resident visas regardless of their age.**

### **Designating Organizations to Identify, Certify and Aid Hong Kongers at Risk of Persecution**

#### **Recommendation 8**

**That Immigration, Refugees and Citizenship Canada partner with designated non-governmental organizations to identify Hong Kong pro-democracy activists in need of safe haven in Canada on a temporary resident visa, to certify Hong Kong refugees, and to facilitate both classes of Hong Kongers at risk to travel from Hong Kong to third countries and to Canada, and redevelop a refugee stream similar to the former source country program.**

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128 CIMM, [Evidence](#), 30 November 2020, 1555 (Avvy Yao-Yao Go).



## **Acknowledging the Urgency of the Hong Kong Situation**

### **Recommendation 9**

**That Immigration, Refugees and Citizenship Canada acknowledge the urgency of the situation and that, given the exit ban will take effect on 1 August 2021, the Minister immediately respond with an expansion of humanitarian measures to the current immigration and refugee measures to support the people of Hong Kong.**

Witnesses also noted that both resettlement and asylum measures require exemptions from the Government of Canada's pandemic restrictions on non-essential travel,<sup>129</sup> in addition to travel documents.

### **Exempting at Risk Hong Kongers from Non-Essential Pandemic Travel Restrictions**

#### **Recommendation 10**

**That Immigration, Refugees and Citizenship Canada issue travel documents to Hong Kongers at risk of persecution and exempt them from non-essential pandemic travel restrictions, following all public health guidelines.**

## **Inland Asylum Claim Processing and Benefits**

If Hong Kongers at risk make it to Canada to submit an inland asylum claim, they may also encounter long wait times, delays in having their cases heard and delays in receiving the right to work and health benefits in the meantime.

Ms. Eatrdes told the Committee that "Hong Kong claims have an average processing time of about 11 months. That was slowed down because of the pandemic, but we are operating now at our annualized capacity of 50,000 claimants" after receiving additional funding from the federal government.<sup>130</sup> She testified that, from 1 January 2020 to 19 February 2021, Hong Kong refugee claims had an 85% acceptance rate.<sup>131</sup>

Despite these high processing and success rates for Hong Kong applications, witnesses testified that they do not capture the full delay and vulnerability for Hong Kong and other asylum claimants in Canada. In its written brief, Alliance Canada Hong Kong

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129 CIMM, *Evidence*, 27 January 2021, 1845 (Guillaume Cliche-Rivard); Alliance Canada Hong Kong, *Policy Brief*, 1 February 2021, p. 4; Eric Li, *Supplement Suggestions to the Committee for Hong Kongers*, p. 1.

130 CIMM, *Evidence*, 22 February 2021, 1735 (Roula Eatrdes).

131 *Ibid.*, 1720.

cautioned that IRB data generally does not take into account applicants who have yet to be referred to the IRB by IRCC or by the Canada Border Services Agency (CBSA), agencies which first determine the application's eligibility.

While data on current [up to 20 November 2020] IRB decisions has shown a drop in the recent backlog of pending refugee claims, this does not tell the whole story. IRB does not record new refugee claims until they are referred to them by IRCC or the CBSA. Since the start of the pandemic, the timeliness of IRCC and CBSA referrals has slowed to a crawl, creating its own backlog of new refugee claims that has not yet made it to the IRB.<sup>132</sup>

Alliance Canada Hong Kong recommended that this issue be dealt with by addressing the backlog in the referral process from IRCC and by overstaffing the IRB.<sup>133</sup>

Even more importantly for their health and safety, Hong Kong asylum claimants also must wait for the IRB to issue the Refugee Protection Claimant Document. This document acknowledges that applicants have made an asylum claim (whether eligible or not) and gives them access to health coverage.<sup>134</sup> It also allows them to apply for a work permit, if they did not do so with their asylum claim.<sup>135</sup> Mr. Cliche-Rivard testified, however, that, presently,

[i]t takes a long time for the famous refugee protection claimant document to be issued and for a work permit to be obtained. More particularly in the case of claims filed on Canadian soil, a very long wait time puts people in situations of considerable vulnerability. So telling [Hong Kong asylum seekers that] they can come and simply claim refugee protection here, in the current context, is very problematic.<sup>136</sup>

Indeed, he explained that "some files dating back to March 2020 have still not been processed ... so there is nearly a year of waiting."<sup>137</sup> To decrease the vulnerability of Hong Kong inland asylum seekers, Alliance Canada Hong Kong urged the Government of Canada to "consolidate access to work permits and social security under the Refugee Protection Claimant Document."<sup>138</sup>

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132 Alliance Canada Hong Kong, [Policy Brief](#), 20 November 2020, p. 2.

133 Ibid., p. 6.

134 Government of Canada, [What is a Refugee Protection Claimant Document \(RPCD\) and when will I get one?](#)

135 Government of Canada, [Claim refugee status from inside Canada: work and study permits](#).

136 CIMM, [Evidence](#), 27 January 2021, 1845 (Guillaume Cliche-Rivard).

137 Ibid.

138 Alliance Canada Hong Kong, [Policy Brief](#), 1 February 2021, p. 5.



On the subject of overall speed of asylum claim processing, Alliance Canada Hong Kong also argued that the IRB could pre-emptively class claims from Hong Kong and China as “less complex” to move these claims faster through the refugee system<sup>139</sup> – a recommendation echoed by Ms. Wong.<sup>140</sup> Ms. Eatrvides testified that the IRB is already implementing a form of this recommendation by triaging Hong Kong claims as part of the IRB’s “task force on less complex claims.” As she explained, “based on current country conditions, the IRB has identified claims made by Hong Kong nationals as suitable to be determined without a hearing or with a short hearing if there are only one or two key determinative issues to be resolved.”<sup>141</sup>

## Permanent Residence and Family Reunification as Refugee Measures

As mentioned above, witnesses argued that Canada should create pathways to permanent residence (PR) and family reunification for Hong Kongers to help them thrive and feel safe in Canada. In discussing refugee measures, witnesses also claimed that PR and uniting with immediate and extended family members are essential to offering effective humanitarian protection to Hong Kongers at risk of persecution.

### Permanent Residence

The humanitarian dimension is most clear in case of PR. Witnesses highlighted that Hong Kongers at risk need a permanent rather than temporary solution, because conditions in Hong Kong are unlikely to improve in the near term.<sup>142</sup> Similarly, Mr. Cliche-Rivard argued that delays in receiving the Refugee Protection Claimant Document from the IRB is a problem not only for receiving benefits and a work permit, but also for further delaying possible PR and ultimate safety:

[O]nce the refugee protection claim has been received, within two to three years from the arrival in Canada, if it is accepted, people must still wait two more years to obtain permanent residence. So that brings the total wait time to four to five years, which is excessively long for someone ... [to] know whether they will be safe over the long term.

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139 Alliance Canada Hong Kong, *Policy Brief*, 20 November 2020, p. 6.

140 CIMM, *Evidence*, 1 February 2021, 1650 (Cherie Wong).

141 CIMM, *Evidence*, 22 February 2021, 1655 (Roula Eatrvides).

142 See, for instance, Vancouver Society in Support of Democratic Movement, *Written brief*, 17 February 2021, p. 3.

... [A] number of people are facing the real possibility of having to return to their country.<sup>143</sup>

From the perspective of Hong Kongers in positions of persecution in Hong Kong and abroad, PR is also an effective and attractive means to obtain protection – particularly if the Government of Canada expedites PR for Hong Kong refugees and Hong Kongers at risk of persecution. Ms. Go cited the precedent of Canada’s granting PR to Chinese students in the wake of the Tiananmen Square massacre, and argued for a similar fast track to PR for Hong Kong pro-democracy activists.<sup>144</sup> Mr. Cliche-Rivard described a modern version based on the model of the program for construction workers:

A special program could very well be created to enable Hong Kong residents to access permanent residence, be it from Hong Kong or from Canada. This would be an accelerated process that would lead to permanent residence. There was a program in Toronto for out-of-status construction workers. ... The ministerial power of the Minister of Immigration, Refugees and Citizenship makes it possible to enforce public policy ... so that an access to permanent residence program, along with relatively flexible criteria, would be created for Hong Kong residents. That would help us save as many people as possible and give them safety.<sup>145</sup>

Once again drawing authority from the minister’s discretionary powers in IRPA, a temporary public policy to grant expedited PR would assure Hong Kongers of adequate and timely refuge in Canada. To supplement the protection of Canada’s resettlement and asylum system, the Committee recommends:

### **Developing an Expedited Pathway to Permanent Residence for Hong Kongers**

#### **Recommendation 11**

**That Immigration, Refugees and Citizenship Canada implement a temporary public policy to create an expedited pathway to permanent residence for Hong Kongers in Canada or abroad before the exit ban comes into effect on 1 August 2021.**

### **Family Reunification**

Currently, only a Canadian citizen or a permanent resident may apply to sponsor family members to come to Canada. As Mr. Cliche-Rivard highlighted, a pathway to permanent residence for Hong Kongers is thus also a pathway to bringing in other Hong Kongers to

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143 CIMM, *Evidence*, 27 January 2021, 1845 (Guillaume Cliche-Rivard).

144 Ibid., 1815 (Avvy Yao-Yao Go).

145 Ibid., 1905 (Guillaume Cliche-Rivard).



Canada through family reunification.<sup>146</sup> More broadly, two witnesses testified that – without family reunification – Canadian residents of Hong Kong escape to Canada only by abandoning their immediate and extended families.<sup>147</sup> As Mr. Neve put it about Canadians in Hong Kong, “Canadians who may need to escape Hong Kong should not be forced to leave close family members behind.”<sup>148</sup>

Arguably, citizens and permanent residents of Canada already possess the ability to sponsor their relatives to come from Hong Kong to Canada through Spousal Sponsorship, the Parents and Grandparents Program and the Parents and Grandparents Super Visa. As Ms. Kim explained to the Committee, for instance, “in terms of family reunification, there’s ... the super visa program that is available generally, which allows parents and grandparents to come temporarily. For those in Hong Kong, they would be eligible to come on an eTA [Electronic Travel Authorization] as a visitor and be exempt from travel restrictions.”<sup>149</sup>

Witnesses argued, however, that these measures are insufficient in the face of a deteriorating situation in Hong Kong. First, as Ms. Go explained, “the super visa is a temporary status ... these people would have to return to Hong Kong, while their children and grandchildren are living here.”<sup>150</sup> Second, the Parents and Grandparents random selection process is too unreliable and slow to respond to worsening conditions.<sup>151</sup> Third, family reunification does not include aunts, uncles, cousins, nieces and nephews, and other extended family highly valued in Hong Kong society. As Cherie Wong put it, “I think we ... need to look beyond the western definition of family members. For Hong Kongers, our cousins and uncles are just as close.”<sup>152</sup> Finally, as Ms. Siu argued, “family reunification only covers a very small number of Hong Kongers with close Canadian family members.”<sup>153</sup> By only allowing sponsorship of immediate family, current Canadian policies limit greatly the amount of Hong Kongers who can find refuge in Canada. Many witnesses argued, therefore, that Canada should expand its

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146 Ibid., 1845.

147 CIMM, [Evidence](#), 17 February 2021, 1850 (Alex Neve); CIMM, [Evidence](#), 1 February 2021, 1705 (Cherie Wong).

148 CIMM, [Evidence](#), 17 February 2021, 1850 (Alex Neve).

149 CIMM, [Evidence](#), 27 January 2021, 1755 (Natasha Kim).

150 Ibid., 1830 (Avvy Yao-Yao Go).

151 CIMM, [Evidence](#), 1 February 2021, 1705 (Cherie Wong)

152 Ibid., 1645 ; CIMM, [Evidence](#), 27 January 2021, 1830 (Avvy Yao-Yao Go).

153 CIMM, [Evidence](#), 17 February 2021, 1820 (Joey Siu).

definition of family for Hong Kong applications to include siblings and extended family.<sup>154</sup> Ms. Go argued that this measure should also apply to students in Canada and allow them to sponsor extended family members.<sup>155</sup> To support robust humanitarian measures that achieve the greatest effect, the Committee recommends:

### **Facilitating Family Reunification for Hong Kongers**

#### **Recommendation 12**

**That Immigration, Refugees and Citizenship Canada promote its family reunification stream to family members of Hong Kongers looking to come to Canada and create a temporary public policy to also include extended family members of Canadian citizens and of pro-democracy activists living in Canada.**

## **CHAPTER 4: DUAL CITIZENSHIP**

The Committee heard that there are approximately 300,000 Canadian citizens living in Hong Kong, with potentially an additional 200,000 Canadian citizens who may not have been claiming non-resident status.<sup>156</sup> In November 2020, IRCC stated that it would expedite the issuance of travel documents for Canadian citizens and Canadian permanent residents living in Hong Kong.<sup>157</sup> On 10 March 2021, Caroline Xavier, Associate Deputy Minister, IRCC, told the Committee that there had not been “an uptick in people asking for additional citizenship documents.”<sup>158</sup>

Mr. Wong told the Committee that with the restrictive implementation of the nationality law in Hong Kong, holders of BN(O) and Canadian passports have been denied the right to exit Hong Kong unless they officially surrender their Chinese nationality.<sup>159</sup> Hong Kong Watch informed the Committee in its written submission that unfolding events give

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154 CIMM, [Evidence](#), 1 February 2021, 1645 (Cherie Wong); CIMM, [Evidence](#), 17 February 2021, 1850 (Alex Neve); Alliance Canada Hong Kong, [Policy Brief](#), 1 February 2021, p. 5.

155 CIMM, [Evidence](#), 27 January 2021, 1855 (Avvy Yao-Yao Go).

156 CIMM, [Evidence](#), 1 February 2021, 1630 (Brian Wong).

157 IRCC, [Canada announces immigration measures supporting Hong Kong residents and Canadians in Hong Kong](#), News release, 12 November 2020.

158 CIMM, [Evidence](#), 10 March 2021, 1835 (Caroline Xavier, Associate Deputy Minister, Department of Citizenship and Immigration).

159 CIMM, [Evidence](#), 1 February 2021, 1630 (Brian Wong).



reason to believe that dual citizens will have to renounce their Canadian citizenship to retain their right to live in Hong Kong:

As U.K.'s BN(O) policy officially began on January 31<sup>st</sup> 2021, China announced its decision of no longer recognizing BN(O) passports as valid identifications or travelling documents and immediately after that, the Hong Kong government made it clear that dual citizenship is not acknowledged in Hong Kong. This signals the further potential curbs on dual citizenship which the 300,000 Canadians in Hong Kong may soon be forced to give up their Canadian nationality to retain the right to abode in Hong Kong.<sup>160</sup>

There are two main issues of concern regarding dual citizens raised by the witnesses. The first touches on the renunciation of Canadian citizenship, either to participate in elections in the pro-democratic camp or under duress. The second is related to how a Canadian living in Hong Kong may have family members who are neither Canadian nor permanent residents and how leaving family behind is not an option.

## Renunciation of Canadian Citizenship

Paul Evans, of the University of British Columbia's School of Public Policy and Global Affairs, told the Committee that dual citizenship is an issue of concern, and that a large number of people will choose to be Chinese if forced to do so because of their businesses, connections and language.<sup>161</sup>

Ms. Wong told the Committee that the renunciation of Canadian citizenship under duress is a rising concern. Although, procedurally, a dual national would need to go in person to the Canadian consulate to renounce their Canadian citizenship, she told the Committee that the Canadian government should develop an awareness campaign for Hong Kongers to be correctly informed about the necessary steps.<sup>162</sup>

Witnesses told the Committee how former pro-democracy legislators renounced their Canadian citizenship to participate in elections in Hong Kong. They asked if there might be a way for IRCC to restore these individuals' citizenship so they may be able to return to Canada.<sup>163</sup> The *Citizenship Act* provides the framework for individuals to resume citizenship. Under normal circumstances, an individual may apply for resumption of

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160 Hong Kong Watch, *Testimony of Joey Siu*, Brief, 1 January 2021, p. 5.

161 CIMM, *Evidence*, 22 February 2021, 1725 (Paul Evans, Professor, School of Public Policy and Global Affairs, University of British Columbia, As an individual).

162 CIMM, *Evidence*, 1 February 2021, 1640 (Cherie Wong).

163 CIMM, *Evidence*, 27 January 2021, 1840 (Eric Li); CIMM, *Evidence*, 27 January 2021, 1905 (Avvy Yao-Yao Go); Vancouver Society in Support of Democratic Movement, *Written brief*, 17 February 2021, pp. 3-4.

citizenship after having lived in Canada as a permanent resident for a year.<sup>164</sup> Mr. Cliche-Rivard suggests that the minister could issue a temporary public policy to facilitate the return of former Canadian citizens to Canada.<sup>165</sup>

### **Facilitating the Return of Former Canadian Citizens**

#### **Recommendation 13**

**That Immigration, Refugees and Citizenship Canada develop a temporary public policy to allow former Canadian citizens to return to Canada as permanent residents.**

### **Dual Citizens and Their Families**

Children born in Hong Kong of a parent born or naturalized in Canada are Canadian citizens by descent. However, several witnesses called on the Committee to consider the extended family of dual nationals. Ms. Wong of Alliance Canada Hong Kong told the Committee that unless Canadians could bring their spouses and extended family with them, they were likely to stay in Hong Kong.<sup>166</sup> Ms. Go informed the Committee that many Canadians living in Hong Kong may have immediate family members that are not permanent residents in Canada. She also emphasized that extended family members could not be sponsored under current Canadian immigration laws. She recommended that the concept of family member be extended to be as inclusive as possible and allow for sponsorship.<sup>167</sup> This testimony is consistent with that detailed above, in the section on family reunification in the third chapter.

## **CHAPTER 5: CONCERNS ABOUT SECURITY AND SAFETY**

While the Government of Canada is working towards providing a safe haven for Hong Kongers fleeing their home due to human right violations, political pressures or persecution, witnesses raised concerns about individuals' security when making their way to Canada and finding safety in Canada. This chapter explains the use of visa application centres (VACs) in an immigration process. It then elaborates on the concerns about foreign interference and lack of safety brought forward by witnesses.

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164 [Citizenship Act](#), R.S.C. 1985, s. 11.

165 CIMM, [Evidence](#), 27 January 2021, 1825 (Guillaume Cliche-Rivard). In its brief, Alliance Canada Hong Kong suggested that Canadian citizenship be "restored." Alliance Canada Hong Kong, [Policy Brief](#), May 2021.

166 CIMM, [Evidence](#), 1 February 2021, 1730 (Cherie Wong).

167 CIMM, [Evidence](#), 27 January 2021, 1830 (Avvy Yao-Yao Go).



## Visa Application Centres

IRCC, with the assistance of Public Safety Canada<sup>168</sup> and at times Employment and Social Development Canada, processes the applications of foreign nationals who want to come to Canada as temporary or permanent residents. Processing is done in Canada or by IRCC's network of offices abroad, supplemented by VACs. By having the VACs abroad, IRCC can provide a higher number of administrative services to a greater number of applicants.<sup>169</sup>

VACs are private entities that, through formal agreements with the Government of Canada, provide administrative services to foreign nationals applying under streams that require study permits, work permits, visitor visas (temporary resident visas) or travel documents for permanent residents.<sup>170</sup> The primary role of the VACs is to receive the applications, ensure that they are complete and forward them securely to the visa office responsible for processing the applications. They also assist with collecting biometric information. The VACs are privately operated and do not represent the Government of Canada. They have no role in the decision-making process and are not authorized to provide visa advice to applicants or to make any type of determination. All decisions on applications are made by IRCC.<sup>171</sup>

Nicole Giles, Associate Assistant Deputy Minister of Operations, IRCC, reassured the Committee that the department has “very strong safeguards in place governing the protection of personal information. There’s an extensive oversight program in place and technological safeguards ensuring that client information is collected, stored and transmitted securely.”<sup>172</sup>

VF Worldwide Holdings Ltd (also known as VFS Global or VFS) is one of the private entities that operates VACs on behalf of the Government of Canada. In 2007, it was “awarded the initial contract for operating the Canada [VACs] in China.”<sup>173</sup> It started its operation on behalf of Canada in 2008 by opening VACs in Beijing, Shanghai, Chongqing and Guangzhou – all cities located in mainland China. In 2012, VFS was awarded a global

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168 Part of Public Safety Canada’s portfolio, the Canada Border Services Agency, the Royal Canadian Mounted Police (RCMP) and the Canadian Security Intelligence Service examine applications for criminality and security purposes. The RCMP is also responsible for archiving biometrics.

169 CIMM, [Evidence](#), 10 March 2021, 1810 (Nicole Giles).

170 IRCC, [Find a visa application centre](#).

171 CIMM, [Evidence](#), 10 March 2021, 1810 (Nicole Giles).

172 Ibid.

173 VFS Global, [Response to Member Questions from February 22, 2021 Testimony](#), 26 February 2021, p. 1.

contract to open and operate VACs in several countries. Under this global contract, it continued operations in China and opened a VAC in Hong Kong. In 2017, VFS expanded its operations in mainland China by opening VACs in seven new cities. In 2018, Canada renewed its global contract with VFS, which currently maintains operations in 11 mainland Chinese cities and in Hong Kong.<sup>174</sup>

VFS Global confirmed that the operations and the model operating in China were absolutely made known to IRCC right from the beginning in 2008 and when it was renewed in 2018.<sup>175</sup> As such, the government is aware of the ownership structure of VFS Global and its contractors, including the fact that the owner of the subcontractor, Beijing Shuangxiong Foreign Service Company is the Beijing Municipal Public Security Bureau. Jiten Vyas, Regional Group Chief Operating Officer, Australasia, China, Africa and Europe & CIS, at VFS Global, also confirmed that Chinese regulations require that any state-owned company must include recognition of the Communist Party in its articles of association, and a party organ must be created in any state firm that employs more than three communist party members.<sup>176</sup>

Under those regulations, all major business and management decisions must be discussed by the Communist Party organ before being presented to the board of directors or management for decision. They further state that the party secretary and chairman of the board of a state firm must be filled by a deputy party committee secretary. Furthermore, for those enterprises under direct control of the central government, the board of directors must include a special deputy party secretary who takes no management role and is exclusively responsible for party building. The first role of the directors or executive who are party members is to execute the will of the party in performing their duties.

## Security Concerns about Visa Application Centres

During its study, the Committee learned that witnesses are concerned that the personal data submitted at VACs will find its way to the Beijing government. Mr. Law conveyed to the Committee that:

It's extremely worrying that the information of the visa applicants or even people who are in contact with others concerning political suppression will be in the hands of

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174 Ibid. The current contract is valid until 31 October 2023.

175 CIMM, *Evidence*, 22 February 2021, 0910 (Jiten Vyas, Regional Group Chief Operating Officer, Australasia, China, Africa and Europe & CIS, VFS Global), 0915 (Chris Dix, Head of Business Development, VFS Global).

176 Ibid., 0935 (Jiten Vyas).



Beijing. We understand that when Beijing wants information from the company registered in China, they could get it. There is no concept of private information for these companies, because in a one-party dictatorship the Chinese Communist Party could get whatever it wants. They have a lot of tools to get the information they want, including blackmailing or colluding with them or just providing financial incentives. This is a very worrying situation.<sup>177</sup>

In addition to the government of the PRC accessing any information from any Chinese organization for security purposes, witnesses expressed concern that there is high potential for a Chinese organization or Chinese citizen to leak data or to spy on behalf of Beijing, even if they do so only through coercion.<sup>178</sup> For Mr. Law, the government of the PRC will use every source of information and every power “to get access to this information, because it means they could specifically target those people who want to leave Hong Kong for political reasons.”<sup>179</sup>

Ms. Siu informed the Committee that “visa centres are actually contracted to Chinese companies that are very closely related to the Chinese government,” including a Beijing police-force-owned company.<sup>180</sup> For that reason, she believes

that a lot of activists, protesters or even random everyday citizens in China would be afraid to apply because that would mean their information would be collected by the Chinese Communist Party. That also means that the Chinese Communist Party would be aware that they are planning to leave the country. That is a very dangerous.<sup>181</sup>

VFS officials informed the Committee that “foreign companies in China in the visa application sector, like VFS Global, operate with locally-owned or state-owned Facility Management Companies (FMCs).”<sup>182</sup> Beijing Shuangxiong Foreign Service Company was VFS’s sole FMC in 2005 for all its VAC operations in China. As a policy, VFS informed its client governments of its use of an FMC,

who, in turn, and in accordance with established protocols and local law requirements, nominated them to the Chinese Ministry of Public Security, authorizing them to operate VACs in the relevant cities of operations in China for that particular client government. When VFS Global responded to the 2007 RFP for the outsourcing of Canada VAC

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177 CIMM, [Evidence](#), 17 February 2021, 1830 (Nathan Law).

178 CIMM, [Evidence](#), 1 February 2021, 1700 (Dominic Tse), 1650 (Brian Wong), 1720 (Cherie Wong); CIMM, [Evidence](#), 17 February 2021, 1840 (Nathan Law).

179 CIMM, [Evidence](#), 17 February 2021, 1840 (Nathan Law).

180 *Ibid.*, 1840 (Joey Siu).

181 *Ibid.*, 1835.

182 VFS Global, [Response to Member Questions from February 22, 2021 Testimony](#), 26 February 2021, p. 1.

operations in China, full details of all [its] FMCs operating across the different cities in China were included in [its] proposal.<sup>183</sup>

When pressed about their security protocols, VFS officials reassured the Committee that they “take data security very seriously”<sup>184</sup> and follow “robust physical security and data protection measures at our VACs, which apply to all employees and visa applicants, comprising Chinese and any third country nationals.”<sup>185</sup> They also stressed the “FMC management, owners or investors have absolutely no access to any data at these visa application centres and no IT infrastructure access. They cannot influence the visa application process set by client governments.”<sup>186</sup> VFS stated that “there is no basis for the concerns expressed that visa applicant information collected at VFS-operated VACs is somehow communicated to the Chinese Communist Party, the government of the PRC or any other unauthorized third parties.”<sup>187</sup> Charles Dix, Head of Business Development at VFS, reiterated that VFS had “no cybersecurity-related issues in China for any client government since we started work there in 2004.”<sup>188</sup>

Minister Mendicino also reassured the Committee and stated that Canada has

a rigorous procurement process led by [Public Services and Procurement Canada], which screens for corporate security and ownership. That's why everyone who is employed by our contractors and subcontractors is screened to the same reliability status that is used for in-house government employees, at our embassies, and in our consular services.<sup>189</sup>

IRCC has put in place compliance and enforcement protocols that include audits. In addition, data from VACs is encrypted and uploaded to the Canadian government system, which is stored in Canada. The information gathered by the VACs is then erased.<sup>190</sup>

While the federal government is confident in the integrity of its systems, witnesses like Ms. Siu warned the Committee that, currently, Hong Kongers are afraid – the use of VACs

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183 Ibid., p. 2.

184 CIMM, [Evidence](#), 22 February 2021, 0905 (Chris Dix).

185 VFS Global, [Response to Member Questions from February 22, 2021 Testimony](#), 26 February 2021, p. 4.

186 Ibid.

187 Ibid.

188 CIMM, [Evidence](#), 22 February 2021, 0955 (Chris Dix).

189 CIMM, [Evidence](#), 10 March 2021, 1705 (Hon. Marco Mendicino).

190 Ibid., 1735.



is a barrier in applying for a visa to come to Canada.<sup>191</sup> Mr. Neve recommended that Canada stay “abreast of security barriers that impede departure from Hong Kong” by collaborating with allies and other governments on this issue.<sup>192</sup>

In order to protect the information of individuals, Mr. Law recommended that the Government of Canada ensure the data gathered through VACs is protected through proper mechanisms, so that it does “not fall into the hands of the Chinese Communist Party.”<sup>193</sup> Mr. Neve suggested that Canada’s Privacy Commissioner review the issue of data collection to ensure the federal government has put in place the proper mechanisms.<sup>194</sup> Overall, the majority of witnesses recommended that the federal government suspend or terminate its contract with VFS.<sup>195</sup> Because VACs handle sensitive personal data that could mean life and death for people, they argued that IRCC should bring the processing of visa application information back in-house, at Canadian diplomatic missions abroad.<sup>196</sup> Given the sensitive nature of the information that would pass through the hands of a Chinese state-owned company operating as a subcontractor for Canada’s Visa Application Centres in China, in the words of Mr. Burton, “[w]e need to stop that contract as soon as possible. ... We need to have this based on Canadians, protecting the data through Canadian servers and Canadian diplomatic facilities.”<sup>197</sup>

With respect to the VACs in China, the Committee appreciates the concerns raised by witnesses and therefore recommends:

### **Investigating Security Concerns at Visa Application Centres Located in China**

#### **Recommendation 14**

**That Immigration, Refugees and Citizenship Canada, in partnership with Public Services and Procurement Canada, and, as needed, other departments and agencies, investigate**

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191 CIMM, [Evidence](#), 17 February 2021, 1835 (Joey Siu).

192 Ibid., 1850 (Alex Neve).

193 Ibid., 1830 (Nathan Law).

194 Ibid., 1850 (Alex Neve).

195 CIMM, [Evidence](#), 27 January 2021, 1905 (Eric Li); CIMM, [Evidence](#), 1 February 2021, 1720 (Brian Wong); CIMM, [Evidence](#), 17 February 2021, 1830 (Nathan Law), 1840 (Joey Siu), 1930 (Charles Burton).

196 CIMM, [Evidence](#), 27 January 2021, 1905 (Avvy Yao-Yao Go); CIMM, [Evidence](#), 1 February 2021, 1700 (Dominic Tse); CIMM, [Evidence](#), 17 February 2021, 1930 (Charles Burton).

197 CIMM, [Evidence](#), 17 February 2021, 1930 (Charles Burton).

**Canada's Visa Application Centres in China, especially in regard to personal data leaks due to employee coercion, and that it tables its findings with the Committee.**

**Terminating the VFS Contract in China**

**Recommendation 15**

**That Immigration, Refugees and Citizenship Canada terminate its contract with VFS Global in China and bring the services back in-house at Canadian diplomatic missions in China.**

## **Foreign Interference and Safety Concerns**

The Special Committee on Canada-China Relations heard testimony about the extent of the repression exerted by the Chinese Communist Party on Hong Kong, in particular on its high degree of autonomy, as well as on the fundamental rights and liberties of Hong Kongers. However, this repression is not bound by borders. It can happen in Canada in multiple ways, such as misinformation or intimidation.<sup>198</sup>

According to Annie Boyajian, Director of Advocacy at Freedom House, the NSL allows the government of the PRC to target people, especially dissidents and critics of the Beijing government. This is true regardless of whether they live in Hong Kong or abroad in countries like Canada. In addition, she pointed out that Canadians living in Hong Kong are now at risk of arrest: "They may also fall victim to politically motivated arrests, besides just national security law issues, as we have seen happen in mainland China."<sup>199</sup>

Mr. Chu described his own situation as an example of the far-reaching powers of the Beijing government. Even though he has lived in the United States since 1990 and has been an American citizen for 25 years, his work with the Hong Kong Democracy Council made him targeted as a foreign citizen under the national security law. He was charged with incitement of secession and collusion with foreign powers.<sup>200</sup> He and others like him now have to be even more careful about what they say, who they talk to and where they go.

While the larger aspect of foreign interference seems, at first, distant from the realities of those in Canada, witnesses informed the Committee that this is a real problem for

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198 CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 6 August 2020, 1735 (David Mulroney).

199 CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 13 August 2020, 1235, 1315 (Annie Boyajian).

200 *Ibid.*, 1245 (Samuel M. Chu).



some people.<sup>201</sup> Gloria Fung from Canada-Hong Kong Link explained that the Chinese Communist Party is intimidating Hong Kong activists in Canada through “covert operations to suppress our right to freedom of expression, using commercial blacklisting, threatening phone calls or emails, cyber-hacking and even physical confrontation.”<sup>202</sup> Mr. Chan testified that he is worried that Tibetans’, Uyghurs’ and Hong Kong activists’ activities in Canada are being documented by China, which could “lead to potential prosecution for us and our families.”<sup>203</sup> For Ms. Wong, this issue hits close to home. She detailed to the Committee the online hate and violence that she has received since her implication with Alliance Canada Hong Kong. She is directly targeted, and she testified to the Committee that:

What is even more worrying is that these interference campaigns are emboldened by Chinese diplomats in Canada. Tong Xiaoling, the consul general in Vancouver, has called on ethno-nationalistic unity in an attempt to assert control over the Sino communities. Hong Kong is not only a foreign issue, which is why our demands are not only about advancing Hong Kong’s democratic future, but it also reflects the ongoing issues facing Canadian communities.<sup>204</sup>

Mr. Neve shared his disappointment with the Committee about intimidation in Canada. He believes “there’s every reason to be concerned that as new arrivals in Canada who may have recently been active in opposition activities and are strong human rights defenders in Hong Kong arrive in Canada, the likelihood that they will be targeted—even here, in their place of safety—is very serious.”<sup>205</sup> He realizes that there is no direct action to solve the problem, but he would like the federal government to consider it when developing its policies about foreign interference.

For other witnesses, such as Mr. Evans, there are some concrete measures that can be taken in response to situations of harassment, intimidation and improper surveillance of any student on university campuses in Canada. He put forward the need for transparency, awareness, accountability as well as “reporting mechanisms that can be trusted to try to bring in our intelligence and our policing services, if necessary.”<sup>206</sup> Two witnesses reported to the Committee that universities and colleges are aware of and working on these issues. One of them stated that “[c]ampuses have been working with

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201 CIMM, [Evidence](#), 30 November 2020, 1635 (Avvy Yao-Yao Go).

202 CACN, [Evidence](#), 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1115 (Gloria Fung).

203 CIMM, [Evidence](#), 16 November 2020, 1730 (Starus Chan).

204 CACN, [Evidence](#), 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1110 (Cherie Wong).

205 CIMM, [Evidence](#), 17 February 2021, 1910 (Alex Neve).

206 CIMM, [Evidence](#), 22 February 2021, 1705 (Paul Evans).

their international students, with consular officials from a variety of countries and with student support folk on the staff of campuses to identify what is actually happening, what’s being alleged to happen, and what are the best paths forward on that.”<sup>207</sup>

Overall, witnesses recommended combatting foreign interference in Canada. One witness suggested that the federal government reaffirm to Chinese security authorities that Canada does not “tolerate any existing interference with the rights of its citizens in their own country” and follow-up with consequences if they refuse to relent.<sup>208</sup> Others suggested legislation to combat foreign interference in Canadian politics and the suppression of freedom of expression on Canadian soil, and to protect Canadian’s constitutional rights and freedoms.<sup>209</sup>

## CHAPTER 6: FOREIGN AFFAIRS MEASURES

Before announcing its specific immigration measures to assist Hong Kongers in November 2020, Canada adopted different foreign affairs measures in response to the evolving situation in Hong Kong over the past year.

This last chapter provides an overview of these measures and summarizes the witness testimony on what additional measures Canada should envision implementing in response to the ongoing situation in Hong Kong.

### Canada’s Foreign Affairs Measures

First, Global Affairs Canada made a series of statements in tandem with like-minded countries as events unfolded.<sup>210</sup>

On 22 May 2020, Canada, Australia and the U.K. released a joint statement to express common concerns over the NSL planned by China. On 28 May 2020, Canada, Australia,

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207 CIMM, *Evidence*, 16 November 2020, 1700 (Paul Davidson, President and Chief Executive Officer, Universities Canada), 1700 (Denise Amyot, President and Chief Executive Officer, Colleges and Institutes Canada).

208 CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 13 August 2020, 1345 (Jerome A. Cohen).

209 CACN, *Evidence*, 1<sup>st</sup> session, 43<sup>rd</sup> Parliament, 11 August 2020, 1120 (Gloria Fung), 1110 (Cherie Wong).

210 In response to petition [e-2640](#) in the House of Commons, the Minister of Foreign Affairs highlighted the various steps taken to express concern from May 2020 to October 2020. Global Affairs Canada (GAC), [Canada takes action following passage of National Security Legislation for Hong Kong](#), Statement, 3 July 2020; GAC, [Statement on the Erosion of Rights in Hong Kong](#), Statement, 9 August 2020; and GAC, [Foreign Ministers’ joint statement on arrests in Hong Kong](#), Statement, 9 January 2021.



the U.K. and the United States (U.S.) released another statement, reiterating their concerns.

On 17 June 2020, the Minister of Foreign Affairs joined the foreign ministers of the U.S., France, Germany, Italy, Japan and the U.K., and the High Representative of the European Union for Foreign Affairs and Security Policy, to release a joint statement urging the Government of China to reconsider its decision.

In June 2020, during the 44<sup>th</sup> session of the Human Rights Council at the UN, Canada and 27 other countries signed a joint statement on the human rights situations in Hong Kong and Xinjiang.

On 3 July 2020, the Minister of Foreign Affairs issued a statement about the imposition of the NSL. Canada joined the international community in reiterating its serious concern about the passage of the NSL by the Standing Committee of the National People's Congress of China. The statement highlighted the fact that this legislation was enacted without the participation of Hong Kong's legislature, judiciary and people, and in violation of international obligations.

On 9 August 2020, a joint statement by the foreign ministers of Australia, Canada, New Zealand, the U.K. and the U.S. condemned the disqualification of the candidates for the elections to the Legislative Council and the postponement of these elections.

On 6 October 2020, at the UN General Assembly's Third Committee, Canada co-signed, along with 38 other countries, a joint statement on the human rights situations in Xinjiang and Hong Kong.

On 9 January 2021, a joint statement by the foreign ministers of Australia, Canada, the U.K. and the U.S. expressed concern over mass arrests of politicians and activists. The statement affirmed that the NSL is a clear breach of the Joint Declaration. They called on the authorities to respect the fundamental rights of Hong Kongers.

On 12 March 2021, the foreign ministers of Canada, France, Germany, Italy, Japan, the U.K. and the U.S., and the High Representative of the European Union, issued a statement on the Chinese authorities' decision to erode fundamentally democratic elements of the electoral system in Hong Kong. The ministers called on China to act in accordance with the Joint Declaration and its other legal obligations, saying that China should respect fundamental rights and freedoms in Hong Kong, end the

unwarranted oppression of those who promote democratic values and the defence of rights and freedoms, and restore confidence in Hong Kong's political institutions.<sup>211</sup>

Second, Global Affairs Canada took a series of actions. Mainly, on 3 July 2020, the Government of Canada suspended its extradition treaty between Canada and Hong Kong, stopped any further exports to Hong Kong along the lines of prohibitions that already existed for China and drafted a new travel advisory.<sup>212</sup> In September 2020, during the 45<sup>th</sup> session of the Human Rights Council, Canada co-hosted a side event on Rights and Freedoms in Hong Kong with the U.K. and Australia.

### Further Measures to Take

In addition to the House of Commons Special Committee on Canada-China Relations' recommendations, which are found in the February 2021 report entitled *The Breach of Hong Kong's High Degree of Autonomy: A Situation of International Concern*, the Committee heard that Canada should stand up to defend common values and a rules-based international order. Witnesses said that Canada should stand together with its allies across the Five Eyes and accept the response from China, which will come with some consequences.<sup>213</sup> Witnesses asked the Committee to not let Hong Kong fall, as this may lead to a domino effect in the region, and elsewhere.<sup>214</sup>

Mr. Neve reminded the Committee that Canada works together with other governments, but that Ottawa has to make "it very clear that the international community, not just Canada, sees a refugee crisis in Hong Kong, [and] adds to the pressure on China as well."<sup>215</sup> Mr. Evans underlined that "as hard as the situation is in Hong Kong now, there is still room for visibility, for transparency around actions, and for us to work with Hong Kongers to try to strengthen human rights and elements of democracy."<sup>216</sup>

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211 GAC, *G7 Foreign Ministers' Statement on Hong Kong Electoral Reform*, Statement, 12 March 2021.

212 GAC, *Canada takes action following passage of National Security Legislation for Hong Kong*, Statement, 3 July 2020; Government of Canada, *Official Global Travel Advisories: Hong Kong*.

213 CIMM, *Evidence*, 1 February 2021, 1655 (Cherie Wong), 1655 (Dominic Tse), 1655 (Brian Wong); CIMM, *Evidence*, 17 February 2021, 1820 (Nathan Law), 1900 (Ted Hui Chi-fung); CIMM, *Evidence*, 22 February 2021, 1645 (Henry Chan); Hong Kong Watch, *Testimony of Joey Siu*, Brief, 1 January 2021, p. 4.

214 CIMM, *Evidence*, 1 February 2021, 1710 (Dominic Tse), 1710 (Brian Wong).

215 CIMM, *Evidence*, 17 February 2021, 1920 (Alex Neve).

216 CIMM, *Evidence*, 22 February 2021, 1715 (Paul Evans).



## CONCLUSION

Over the last year, the Government of Canada has expressed concerns about Beijing undermining of democracy and human rights in Hong Kong – particularly in the wake of the PRC’s imposition of the NSL in June 2020. In response, Canada announced foreign affairs and special immigration measures to provide a lifeboat to Hong Kongers who need to find a safe haven in Canada.

While witnesses particularly welcomed the special immigration measures, they also offered the Committee numerous recommendations to improve them and existing immigration and refugee pathways. Given that the situation continues to escalate quickly, the Committee calls on IRCC to urgently implement its recommendations.

The Committee would like to thank all the witnesses who shared their insights, lived experiences and recommendations. You have all greatly contributed to this study.

## APPENDIX A LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee’s [webpage for this study](#).

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Canada-Hong Kong Link</b> Eric Li, Vice-President	2021/01/27	13
<b>Chinese and Southeast Asian Legal Clinic</b> Avvy Yao-Yao Go, Clinic Director	2021/01/27	13
<b>Department of Citizenship and Immigration</b> Nicole Giles, Associate Assistant Deputy Minister Operations Natasha Kim, Associate Assistant Deputy Minister Strategic and Program Policy	2021/01/27	13
<b>Quebec Immigration Lawyers Association</b> Guillaume Cliche-Rivard, President	2021/01/27	13
<b>As an individual</b> Dominic Tse, Pastor	2021/02/01	14
<b>Alliance Canada Hong Kong</b> Cherie Wong, Executive Director	2021/02/01	14
<b>Mustard Seeds Hong Kong Concern Group</b> Brian Wong, Reverend	2021/02/01	14
<b>As an individual</b> Charles Burton, Senior Fellow Centre for Advancing Canada's Interests Abroad, Macdonald-Laurier Institute Ted Hui Chi-fung Nathan Law, Hong Kong Activist, Former Legislator Alex Neve, Senior Fellow, Graduate School of Public and International Affairs University of Ottawa	2021/02/17	15

<b>Organizations and Individuals</b>	<b>Date</b>	<b>Meeting</b>
<b>Hong Kong Watch</b> Joey Siu, Associate	2021/02/17	15
<b>Vancouver Society in Support of Democratic Movement</b> Mabel Tung, Chair	2021/02/17	15
<b>VFS Global</b> Chris Dix, Head of Business Development Jiten Vyas, Regional Group Chief Operating Officer Australasia, China, Africa and Europe and CIS	2021/02/22	16
<b>As an individual</b> Paul Evans, Professor School of Public Policy and Global Affairs, University of British Columbia	2021/02/22	17
<b>Immigration and Refugee Board</b> Roula Eatrides, Deputy Chairperson Refugee Protection Division Heather Primeau, Director General Strategic Directions and Corporate Affairs Branch	2021/02/22	17
<b>Saskatchewan Stands with Hong Kong</b> Henry Chan, Co-director	2021/02/22	17
<b>Department of Citizenship and Immigration</b> Marian Campbell Jarvis, Assistant Deputy Minister Strategic and Program Policy Nicole Giles, Associate Assistant Deputy Minister Operations Pemi Gill, Director General International Network Hon. Marco Mendicino, Minister of Immigration, Refugees and Citizenship Caroline Xavier, Associate Deputy Minister	2021/03/10	19

## **APPENDIX B LIST OF BRIEFS**

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The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

**Alliance Canada Hong Kong**

**Canada-Hong Kong Link**

**Hong Kong Watch**

**Soo, Richard S.**

**Torontonian HongKongers Action Group**

**Vancouver Society in Support of Democratic Movement**



## REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 13-17, 19, 20, 31 and 32](#)) is tabled.

Respectfully submitted,

Salma Zahid  
Chair

