

**GOVERNMENT RESPONSE TO THE SECOND REPORT OF THE HOUSE OF COMMONS
SPECIAL COMMITTEE ON CANADA-CHINA RELATIONS ENTITLED, “THE BREACH OF
HONG KONG’S HIGH DEGREE OF AUTONOMY: A SITUATION OF INTERNATIONAL
CONCERN”**

Recommendation 1

That the Government of Canada communicate publicly that it will not act upon or support any arrest warrants or requests for legal assistance that are connected to the enforcement of the National Security Law imposed on Hong Kong.

The Government agrees with the recommendation on the need to avoid supporting the enforcement of the National Security Law in cases involving actual political persecution.

On July 3, 2020, Canada suspended the Canada-Hong Kong extradition treaty under its own terms and made a public statement to that effect. The suspension means that Hong Kong could not invoke that treaty as a basis for requesting an arrest related to the National Security Law. On the instruction of the central government of the People’s Republic of China, Hong Kong unilaterally suspended the Canada-Hong Kong mutual legal assistance treaty on July 28, 2020.

Recommendation 2

That the Government of Canada review all travel advisories to ensure that, when needed, they reflect the risks that Canadians travelling abroad may face as a result of the National Security Law imposed on Hong Kong. This review should include advisories concerning countries that have extradition agreements with Hong Kong and/or the People’s Republic of China, as well as countries that have a known history of arbitrarily detaining or surrendering human rights defenders, activists, dissidents and other political figures to China’s security agencies. Further, the Special Committee recommends that the Government of Canada also specifically seek to proactively warn people who are travelling to Hong Kong about the new situation, including via – but not limited to – updated travel advisories.

The Government agrees with this recommendation.

Shortly after the National Security Law came into effect on June 30, 2020, the Government of Canada updated its travel advisory for Hong Kong, noting that activities considered as national security violations are broadly and vaguely defined. These offences could include activities that are not considered illegal in Canada and activities that occurred outside of Hong Kong. Canadian and foreign nationals risk being arbitrarily detained on national security grounds, even while transiting through Hong Kong. Individuals could also be subject to transfer to mainland China for prosecution. Penalties are severe and include life imprisonment. Global Affairs Canada continues to monitor the situation in Hong Kong, and will proactively review its assessments and inform Canadian travelers through timely updates of the Travel and Advice Advisories on travel.gc.ca and through other channels of information, such as the Registration of Canadians Abroad messages or social media.

Recommendation 3

That the Government of Canada play a lead role in working with as broad a coalition of democratic nations as possible with a view to promoting a coordinated, coherent and sustained response to the People's Republic of China's government's erosion of Hong Kong's freedoms and democracy.

The Government agrees with this recommendation.

Following the imposition and implementation of the National Security Law in Hong Kong on June 30, 2020, Canada has worked with international partners to support the fundamental rights and freedoms of Hong Kong residents and Hong Kong's high degree of autonomy under the Basic Law and the One Country, Two Systems framework. In advance of the imposition of the law, Canada, Australia and the United Kingdom issued a joint statement on May 22 expressing deep concern over proposals to introduce national security legislation in Hong Kong. Another statement was issued with Australia, the United Kingdom and the United States on May 28, reiterating concerns over the anticipated introduction of the National Security Law. On June 17, Canada joined its G7 partners to release a joint statement urging China to reconsider its decision. On July 3, shortly after the law's imposition, Canada announced a series of measures in response to the National Security Law in Hong Kong, including export control measures, the suspension of the extradition treaty with Hong Kong and an update on the travel advice for the SAR. Many of Canada's partners subsequently followed its lead in suspending their own extradition treaties with Hong Kong.

On November 12, Immigration, Refugees and Citizenship Minister Marco Mendicino announced new immigration measures aimed at attracting youth from Hong Kong to Canada by offering a new open work permit and broadening their pathways to permanent residency. These measures complement similar initiatives announced by international partners concerned by the deteriorating rights situation in Hong Kong. On February 4, 2021, Minister Mendicino announced that Hong Kong residents would be able to apply for new open work permits beginning on February 8, 2021. In addition to open work permits, the Government of Canada continues to implement 2 new pathways to permanent residence for young Hong Kong residents, which will be available later this year. The first will be for Hong Kong residents with at least 1 year of work experience in Canada and who meet the language and education criteria. The second will be for Hong Kong residents who have graduated from a post-secondary institution in Canada; who can then apply directly for permanent residence. More information will be available in due course. To support these measures, Canada is also prioritizing applications for temporary and permanent immigration for applicants from Hong Kong, including applications for work and study permits. Equally, due to the worsening conditions in Hong Kong that could put some individuals at risk, Canada has also implemented an exemption to the 12-month bar on a pre-removal risk assessment for Hong Kong residents.

On March 11, 2021, the National People's Congress of China approved a Decision to overhaul existing electoral mechanisms in order to further restrict political participation in Hong Kong. In response, Canada and its G7 partners issued a statement expressing grave concerns over this latest development, and reiterated calls for Hong Kong and Chinese central authorities to uphold legal obligations in accordance with the Sino-British Joint Declaration. Most recently, on March 30, the Standing Committee of the National People's Congress unanimously adopted Annex I and Annex II to Hong Kong's Basic Law, paving the way for the enactment of sweeping changes to Hong Kong's electoral system. The Government of Canada expressed concerns over this latest development, and will continue to work with international partners to hold Hong Kong and Chinese central authorities to account for

breaching the international obligations that commit them to respecting the fundamental rights and freedoms of Hong Kong residents.

Recommendation 4

That the Government of Canada support the creation of a United Nations special envoy and/or special rapporteur focused on the human rights situation in Hong Kong.

The Government of Canada agrees with this recommendation to advance the human rights situation in Hong Kong, and will continue to work with international partners to build support for increased attention of the UN on this priority issue.

Together, with other countries, Canada has raised the human rights situation in Hong Kong on numerous occasions at the UN, including before the UN Human Rights Council and at the UN General Assembly. In June 2020, Canada joined a statement read by the United Kingdom at the Human Rights Council on behalf of 27 countries calling on the High Commissioner for Human Rights to provide regular information on the human rights situation in Xinjiang and Hong Kong, in order to safeguard the rights and freedoms which are guaranteed under international law. This was followed by a joint statement read by Germany in October 2020 at the UN General Assembly's Third Committee, General Debate, where Canada joined 38 other countries to reaffirm our shared concerns over the human rights situation in Xinjiang and Hong Kong.

Recommendation 5

That the Government of Canada, in light of the recent removal of democratically elected legislators in Hong Kong, reiterate its support for the right of the people of Hong Kong to elect Legislative Council representatives via genuinely free, fair and credible elections, and also publicly express its support for the aim of universal suffrage for the people of Hong Kong, as contained in the Basic Law of the Hong Kong Special Administrative Region.

The Government agrees with this recommendation.

The Government of Canada condemned the mass arrest of opposition politicians and activists in Hong Kong on January 6, 2021, on charges related to the selection of candidates for the September 2020 Legislative Council elections. The arrests fundamentally contradict the right to political participation guaranteed to the people of Hong Kong under the Basic Law. The charges demonstrate that the National Security Law is a tool for escalating repression of peaceful political opposition and grassroots electoral politics and is an assault on representative democracy and the rule of law. Canada has also expressed its concerns over the recent decision by the National People's Congress of China to overhaul Hong Kong's electoral mechanisms to ensure only "patriots" are eligible for office and to reduce the number of directly-elected seats in the Legislative Council.

The Government of China accepted Canada's recommendation at the UN Human Rights Council under its Universal Periodic Review (2018) to "ensure the right of Hong Kong people to take part in government, without distinction of any kind." The recent arrests and election system interventions violate this commitment. Canada remains committed to supporting Hong Kong's high degree of

autonomy within the One Country, Two Systems framework and the Basic Law, and to holding the Government of China to account for its international obligations. We will continue to monitor developments in Hong Kong closely, and reserve the right to undertake appropriate action in response to any future developments.

Recommendation 6

That the Government of Canada apply targeted sanctions toward the People’s Republic of China in co-ordination with like-minded states, including considering sanctions under the *Justice for Victims of Corrupt Foreign Officials Act (Magnitsky Act)* against those responsible for or complicit in gross violations of human rights, freedoms and the rule of law in Hong Kong, as enshrined in the 1984 Sino-British Joint Declaration, an international treaty registered in the United Nations, which Canada and many other countries endorsed, as well as Hong Kong’s Basic Law and the *International Covenant on Civil and Political Rights*.

The Government takes note of this recommendation.

The Government of Canada will always stand up for human rights and the safety and security of Canadians at home and abroad. The decision to deploy sanctions and/or draw on other courses of action in its diplomatic toolkit is based on Canada’s foreign policy priorities. To this end, we have established a rigorous due diligence process to consider and evaluate possible causes of human rights violations, corruption or other circumstances that may warrant the application of sanctions. The Government tailors its responses to the specifics of each unique situation and, wherever possible, coordinates closely with international partners to maximize the effectiveness of sanctions. We will continue to work with international partners to advance respect for human rights around the world with consideration of all tools at its disposal.

The choice of legal instrument to apply sanctions is considered on a case-by-case basis in the context of the specific circumstances at issue. When the *Justice for Victims of Corrupt Foreign Officials Act (JVCFOA)* was enacted in 2017, it also broadened the circumstances for imposing sanctions under the *Special Economic Measures Act (SEMA)* to include gross and systematic human rights violations. Canada has collaborated with like-minded countries on a series of important autonomous sanctions measures through the SEMA in relation to gross and systematic human rights violations in Belarus, China, Nicaragua, and Russia. On March 22, 2021, Canada announced new sanctions against 4 officials and 1 entity under the *Special Economic Measures (People’s Republic of China) Regulations* based on their participation in gross and systematic human rights violations in the Xinjiang Uyghur Autonomous Region.

Recommendation 7

That the Government of Canada expand the family class program to facilitate reunification of Canadians with extended family members in Hong Kong.

The Government takes note of this recommendation.

Family reunification is an important component of Canada's immigration system. "To see that families are reunited in Canada" reflects an objective of the *Immigration and Refugee Protection Act*. Canada has a generous family reunification program which accounts for approximately 27% of all permanent residents and is targeting to bring 103,500 individuals from all over the world in 2021. The program allows for the sponsorship of spouses, common-law partners, conjugal partners, dependent children (including adopted children), parents, grandparents, or orphaned relatives under the age of 18.

Pursuant to the *Immigration and Refugee Protection Act*, Canada must balance multiple objectives outlined therein, which include family reunification, but which also include the objectives to offer safe haven to refugees, to pursue the maximum economic benefits of immigration and to support the development of a strong and prosperous Canadian economy. Canada is also committed to ensuring that family reunification opportunities are available equally, regardless of nationality or passport.

The number of immigrants admitted as new permanent residents to Canada each year is determined on an annual basis. Within this context, the Government must balance demand and priorities relating to family, economic, and humanitarian objectives alongside overseas processing and settlement services capacity.

To further help facilitate reunification with family members abroad, Canada also offers opportunities for temporary resident status, including the ability of parents and grandparents of Canadian citizens and permanent residents to apply for the Parents and Grandparents Super Visa which is valid for up to 10 years and allows extended stays of up to two years at a time.

Recommendation 8

That the Government of Canada consider how to best expedite asylum claims made by Hong Kong people involved in the pro-democracy movement.

The Government agrees with this recommendation.

Foreign nationals in Canada, including individuals from Hong Kong, have access to the asylum system. Current legislative and regulatory authorities do not allow an application for asylum to be made from outside of Canada. Individuals who are eligible to make a claim are referred to the Immigration and Refugee Board of Canada, an independent, administrative tribunal. Board decisions are made by an independent decision-maker in accordance with the law, based on the merits of the specific facts presented in an individual case. When making decisions, the Board always take into account whether an individual has a fear of persecution either based on race, religion, political opinion, nationality, or membership in a particular social group.

To provide fair and efficient adjudicative justice, the Board regularly monitors conditions in refugee-producing countries or regions. Refugee claims from Hong Kong are currently being actively examined and case management strategies are being utilized to ensure the efficient and timely determination of these claims. Namely, claims from Hong Kong residents in Canada have been identified for triage as part of the Board's Task Force on Less Complex Claims. This means that, based on current conditions, the Board has identified claims made by Hong Kong residents in Canada as suitable to be decided without a hearing or with a short-hearing, if there are only one or two key determinative issues to be resolved. If there are more complicated questions of credibility or identity, then such cases will not be

able to be addressed as a less complex claim and will be decided with a regular hearing.

Canada also has a robust refugee resettlement program. In 2019, Canada resettled more than 30,000 refugees and was the world's top refugee resettlement country for the second year in a row. Individuals from Hong Kong who have fled their homeland and have no other durable solution may be referred to Canada for resettlement by the United Nations High Commissioner for Refugees or Canadian private sponsors. While resettlement has slowed due to the global pandemic and its associated challenges, as well as international border and travel restrictions, we continue to resettle urgent protection cases.

In recognition of the particular risks faced by human rights defenders, Immigration, Refugees, and Citizenship Canada has committed to implement a dedicated refugee stream to provide safe haven to human rights defenders, one of the first of such programs in the world. This new stream, which is on track to be fully operational later this year, will make a significant contribution to the international human rights defenders protection regime by allowing up to 250 human rights defenders and their family members to be resettled to Canada per year.

Recommendation 9

That the Government of Canada ensure that no one will be disqualified from making an asylum claim or availing themselves of immigration routes to Canada because they have been charged with offences associated with the pro-democracy movement in Hong Kong. This exemption should also apply to charges resulting from the exercise of freedom of expression and freedom of assembly, as embodied in the *International Covenant on Civil and Political Rights*.

The Government takes note of this recommendation.

Individuals who have been charged with offences associated with the pro-democracy movement may be eligible to come to Canada under existing immigration programs. Applications are considered on a case-by-case basis and admissibility decisions are based on evidence, such as police reports, newspaper clippings, court records or statutory declarations. If an immigration decision-maker determines the individual has not committed any acts that are equivalent to an offence under Canadian law, those charges would not affect the individual's immigration application nor prevent the person from applying for asylum in Canada.

Under the *Immigration and Refugee Protection Act*, foreign nationals charged or convicted of a crime may be inadmissible to Canada on criminality grounds, and may be refused a visa, electronic travel authorization or entry to Canada. In some cases, serious criminality can affect a person's eligibility to access the asylum system. An individual will generally not be eligible to make an asylum claim if they have been determined to be inadmissible on grounds of security, violating human or international rights, serious criminality or organized criminality.

Foreign offences are examined to see whether the act committed would have been an offence under Canadian laws if they had occurred in Canada. For example, peaceful protesting does not constitute a crime in Canada, and therefore, would not affect a person's immigration application or asylum claim. In another example, the subversion offence under Hong Kong's National Security Law is broader than similar offences in Canada. Acts that are considered subversion in Hong Kong but do not equate to an offence if committed in Canada would not render an individual inadmissible pursuant to section 36 of

the Immigration and Refugee Protection Act.

Recommendation 10

That the Government of Canada consider issuing travel documents to facilitate the safe and immediate exit from Hong Kong of pro-democracy activists.

The Government takes note of this recommendation.

The Government of Canada is satisfied that it already has the tools and procedures in place to document pro-democracy activists for travel to Canada if needed. For example, the Government can assist Canadians seeking to exit Hong Kong by issuing passports to its nationals. Hong Kong Special Administrative Region and British National (Overseas) passport holders are visa-exempt for travel to Canada, requiring only an electronic travel authorization (eTA) to fly to or transit through Canada. In general and where warranted, and in conformity with existing guidance, permanent residents of Canada and foreign nationals can also be facilitated to travel to Canada through the issuance of immigration documents on an exceptional case by case basis where a national passport or other travel document may not be otherwise obtained.

Recommendation 11

That the Government of Canada convey, to the Ambassador of the People's Republic of China to Canada, that any interference with the rights and freedoms of people in Canada is unacceptable, will not be tolerated, and will result in serious consequences for those responsible.

The Government agrees with this recommendation, noting that incidents involving interference by foreign governments in Canada have been and will continue to be proactively addressed at every opportunity.

The Government of Canada applies a whole-of-government approach to safeguarding our communities, democratic institutions, and economic prosperity. This includes working closely with partners and allies, such as via the G7 Rapid Response Mechanism, to share the information necessary to understand and counter the full spectrum of foreign interference. Our international partners and allies face similar threats and by working together we bring our collective resources to counter threats from foreign actors. Canada is committed to working with partners and allies to share the critical information necessary to understand and counter the full spectrum and threat of foreign interference. Canada has always stood up for a rules-based international order based on adherence and respect for international norms. The Government of Canada is committed to protecting the rights and freedoms of Canadians, and will continue to raise behaviour that threatens these rights and freedoms with foreign governments.

Recommendation 12

That, in light of the allegations of threats and intimidation against people in Canada supporting human rights and democracy in Hong Kong, the Government of Canada carefully review accredited diplomatic personnel in the People's Republic of China's diplomatic missions to Canada.

The Government agrees in principle with this recommendation.

Reports of harassment and intimidation of individuals in Canada are deeply troubling and allegations of such acts being carried out by foreign agents are taken very seriously. Chinese government representatives in Canada, like all foreign government representatives in this country, have a duty under international law to respect the laws and regulations of Canada. The Government of Canada reviews the diplomatic accreditation of all foreign diplomatic representatives to ensure that their duties and responsibilities are consistent with Canadian laws and regulations and are in line with diplomatic conventions and norms. Canada has always highlighted human rights concerns and respect for basic human liberties with every country that it engages with around the world, including China. Canada is a strong defender and supporter of fundamental rights and freedoms, here in Canada and elsewhere around the world. Canada will continue to defend human rights while at the same time looking to protect Canadians around the world.