

Program Options for Hong Kongers Seeking Protection

Policy Brief

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Executive Summary

Experts have documented the systematic oppression and violence against democratic activists in Hong Kong, well before the start of the protest movement in June 2019. The imminent implementation of a national security law (NSL) threatens the fundamental rights and freedoms of the entire Hong Kong population. Democratic activists, who are suppressed and many have been assaulted, *see Appendix A & B*, now fear further political persecution.

The Canadian government should consider providing temporary protected or permanent residency status to Hong Kong residents, participants and activists of Hong Kong's democratic protests who hold a political opinion that is critical of the Chinese or Hong Kong government, and individuals with family and support systems in Canada for reunification.

In addition to the clear humanitarian purpose, accepting asylum seekers from Hong Kong would provide Canada with economic and foreign policy benefits, as refugee claimants from Hong Kong are likely to be young, educated, English-speaking global citizens whose values align with those of Canada.

The government must also consider barriers specific to Hong Kong asylum seekers by:

- Waiving arrests, charges, convictions records tied to individuals' participation in the democratic protest movement that are deemed political persecution, *see Appendix B*;
- [REDACTED] pro-democracy activists whose freedom of movement is suppressed, *see Appendix E*;
- Allowing refugees' immediate family to seek safety in Canada, *see Appendix D*;
- Including applicants who are also suffering from persecution in China.

Recommendations

Below are five recommendations that can be combined to form a comprehensive strategy to support asylum seekers from Hong Kong and China:

1. Add Hong Kong and China to the countries that qualify for less complex claims;
2. Allow claims [REDACTED]
3. Enhance and amend sponsorship program by working with Hong Kong-Canadian communities to sponsor and share responsibilities for incoming claimants;
4. Provide asylum and travel documents to known democratic activists whose freedom of movement is restricted;
5. Employ workers through existing employment and labour programs.

These policy options draw from existing structures and would not be overly difficult to implement. Many Hong Konger communities in Canada are willing and ready to support the government's initiatives. There are also multiple public policy considerations where the Minister of Immigration may permit applicants from Hong Kong and China to apply for permanent residency **directly**.

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Introduction

According to the Immigration and Refugee Board (IRB), 25 Hong Kongers have made refugee claims from January to March of 2020. This past three months has shown a seven-year high in refugee applications. This spike in refugee claims can be explained by the recent political turmoil that has rocked Hong Kong and the greater China region. Hong Kong's government has begun persecuting citizens for political dissent, aligning themselves with the Chinese Communist Party (CCP) government, *see Appendix B*.

Human rights experts have documented the extensive systematic suppression and state-sanctioned violence, *see Appendix A, B, C & E*. The imminent implementation of a "national security law" (NSL) in Hong Kong is triggering concerns about the safety of everyone who resides in Hong Kong - not limited to activists. Previously, Canada has provided refuge to all Chinese nationals who were residing in Canada after Beijing's 1989 Tiananmen Square massacre. Canada should open its doors to Hong Kongers today.

Benefits to Canadian Society

From a humanitarian perspective, granting asylum to Hong Kongers is not a difficult choice; granting residence to Hong Kongers would provide Canada a foreign policy win, a national security advantage, an economic lifeline, and an enhanced cultural mosaic.

High-Value Immigration Candidates

The Canadian government historically used immigration policies to strategically poach high-value candidates from other countries. Correspondingly, the refugee claimants from Hong Kong are likely to be young, well-educated, and English-speaking global citizens whose values align with Canada.

The Hong Kong diaspora would not only serve as a soft landing for newly arrived Hong Kongers into Canadian society, but could also serve as a prediction of the future: a vibrant community of entrepreneurs, professionals, and artists spread across every province and territory, providing cultural diversity, and economic connections while embodying truly Canadian values of multiculturalism and democracy.

Valuable Intelligence and Policy Assets

The vast majority of Hong Kongers are conversant in Mandarin, in addition to English and Cantonese. There are few populations like Hong Kongers that could simultaneously understand and navigate the corridors of power in Beijing; while embodying the values of a free, democratic, and pluralistic society. Dealing with twenty-first century challenges such as industrial espionage and intellectual-property theft, we can be assisted by recruiting from a population that shares similar cultural and linguistic characteristics with potential competitors. Such a national security advantage is not to be understated.

Selection Criteria

The Canadian government should consider providing temporary protected or permanent residency status to:

- Hong Kong residents, whether they hold residency or citizenship in Hong Kong, who have no other means to emigrate;
- Those who are facing persecution for their participation in pro-democracy protests, for engaging in pro-democracy activism, or holding a political opinion that is critical of the Chinese Communist Party or the government of the Hong Kong Special Administrative Region, *see Appendix A, B, C, E, & F*, and/or;
- Individuals with family/support systems in Canada for reunification, *see Appendix D*.

Key Considerations

The Canadian government must consider:

- Waiving arrests, charges, and convictions records tied to individuals' participation in the democratic protest movement that are deemed as political persecution, as many charges and convictions stem from political suppression, *see Appendix B & C*;
- [REDACTED] for pro-democracy activists [REDACTED] unable to leave, *see Appendix E*;
- Allowing immediate family members of refugees to seek safety in Canada;
- Including applicants from East Turkestan (Xinjiang), Tibet, Mongolia, and China, who are facing political persecution from the Chinese Communist Party.

Recommendations

Our refugee and immigration system is well-suited in processing these claims. The government holds the ability to streamline cases from countries with well-established human rights abuses, where claimants have reliable identification, and where the evidence is unambiguous regarding the risks of holding an adverse political opinion or for opposing the current government. All of these factors apply in the case of refugee claims from Hong Kong.

While these recommendations are considered as internal operations of Canada, there are broader geopolitical considerations. Given that the United Kingdom has proposed a pathway to citizenship for 2.8 million Hong Kongers, there is an established international precedent. By collaborating with other countries to implement asylum or resettlement programs, Canada would be adding their voice into an international chorus. Such a globally coordinated response would mitigate any rebukes by the Chinese Communist Party.

We recommend the Canadian Government develop a refugee/ resettlement and/ immigration strategy by implementing one or more of these following policy options:

1. **Expedite existing processes for refugee claimants from Hong Kong;**
2. **Allow claims [REDACTED];**
3. **Enhance and amend sponsorship programs;**
4. **Provide asylum to known democratic activists;**
5. **Employ workers through the existing programs.**

Recommendation 1:

Expedite existing processes for refugee claimants from Hong Kong

ACHK urges the Canadian government to expedite application processing by giving them priority, adding Hong Kong and China to the countries that qualify for less complex claims will prevent an unnecessary backlog at the IRB.

Under these circumstances, the Minister of Immigration may, under section 25.2(1) of the *Immigration and Refugee Protection Act*, establish that there are public policy considerations that justify granting permanent residency to refugee claimants from Hong Kong.

Benefits include:

- **An already established system** - This recommendation draws on the strengths of existing structures and procedures. Moving Hong Kong and China to the “less complex” claim process can be easily done and will accelerate refugee claims and better prepare the IRB for a high number of claims.

Drawbacks include:

- **Inability to assist those in most dire need** - even with the less complex claims process, claimants must still be able to leave Hong Kong and board a flight to Canada. This is highly unlikely for most protesters engaged in democratic activism, see *Appendix E*.

Recommendation 2:

Allow claims [REDACTED]

[REDACTED] with restricted freedom of movement in Hong Kong and China, see *Appendix E*, [REDACTED]
[REDACTED]

The Minister of Immigration may also wish to establish public policy considerations that justify granting Hong Kongers permanent residency in Canada. Under section 140.3 of the *Immigration and Refugee Protection Regulations*, the Minister may permit foreign nationals to apply for permanent residency with a referral from an organization that has a memorandum of understanding with the Minister. The Minister may also determine a geographic area in which circumstances justify the submission of permanent residency visa applications without such a referral.

Benefits include:

- **Addresses the crucial need** [REDACTED] A solution for the tens of thousands of activists who do not have other means of escape.
- **Minor modifications to existing structures** - While this policy option will require the Canadian government to change current procedures, we believe that the existing structures will be able to support this minor adjustment.

Drawbacks include:

- **Processing time and admin heavy** - This process will be lengthy and we recommend other options be utilized in conjunction with this method.

Recommendation 3: Enhance and amend sponsorship programs

[REDACTED]
[REDACTED] While blended sponsorship programs are an existing option, the Canadian government should work with the [REDACTED]
[REDACTED]

[REDACTED] The government should also reduce the requirements for private sponsorship to allow more Hong Kongers and other persecuted groups to be settled in Canada.

Benefits include:

- **There are existing structures for sponsorship programs** - Sponsorship structures are already in place whether government or private sponsors.
- **Lessens strain on government resources** - Allowing for adjusted private and blended sponsorship programs [REDACTED] Many Hong Kong residents have family and friends who live in Canada and can provide adequate support to new refugees
- **Less political friction** - The nature of private sponsorship makes it difficult for foreign governments to criticize the Canadian government.

Drawbacks include:

- **Processing time and administrative burden** - This process will be lengthy. We suggest for other recommendations to be utilized in conjunction with this one.

Recommendation 4:

Commitment to provide refugee status for known democratic activists

Many activists are facing state surveillance and violence, *see Appendix A & B*; their freedom of movement is suppressed by travel bans, especially if they have been detained, arrested, charged, and/or convicted for their participation in democratic activities, *see Appendix E*. By granting democratic activists [REDACTED], Canada can provide protection to activists facing state violence. These travellers will need [REDACTED], as there are [REDACTED] denying many activists from exiting Hong Kong.

Benefits include:

- **Help those who need protection the most** - [REDACTED]
This will offer humanitarian aid that no other country is able to provide.
- [REDACTED] there are existing staff and an office to support these claimants.

Drawbacks include:

- **Political retaliation** - Given these are well-known activists facing political persecution, retaliation from the Chinese and Hong Kong governments should be expected.

Recommendation 5: Employ workers through the existing programs

There are existing employment and labour programs (ex: Atlantic Immigration Pilot, Rural & Northern Immigration Pilot, Provincial Nominee Programs, Working Holiday Visa, Express Entry) that seek to fill skilled-positions with international applicants from Hong Kong and China.

Benefits include:

- **Existing programs and or structures** - There are existing programs that are driven by provinces and municipalities, the structure and staff already exists. The implementation will not require additional resources.
- **Less political friction** - Minimal backlash, as these existing employment programs are not deemed controversial
- **Utilizing potential benefits to Canadian economic growth** - Resettling Hong Kongers through existing programs can add to the economic growth of rural, northern communities and Canadian economy at large.

Drawbacks include:

- **Restrictive criteria** - Not all will fit the required criteria. This program will need to be implemented in conjunction with other resettlement streams.
- **Shared jurisdiction between Ottawa and the provinces** - Provinces and municipalities have a major role in the selection of economic immigrants. This policy will require collaboration with provincial and municipal partners and will take a substantial period of time for implementation.

Stakeholders

[REDACTED]
[REDACTED] to provide financial, language, and other support programs for incoming asylum seekers, which [REDACTED], see Appendix D.

We recommend the government to create a Hong Kong specific working group, inclusive of experts & representatives from IRCC, IRB, provincial immigration ministries, Hong Kong Canadian community groups, and other stakeholders.

Appendix A

Suppression of Political Opinions and Persecution in Hong Kong

Summary: Since June 2019, there has been systematic efforts to suppress and persecute diverse political opinions in Hong Kong. The suppression and persecution of activists, journalists, lawmakers, and supporters of the democratic movement manifested as incidents of physical assaults, extrajudicial surveillance, cyberattacks, and the overall suppression of media freedoms. Many activists have suspected that Chinese state agents are active in Hong Kong to do the biddings of the Chinese Communist Party (CCP), and the national security law (NSL) will legalize these secret operations.

Coordinated and targeted violence against pro-democracy figures

Triads and pro-Beijing individuals have been carrying out violent assaults in Hong Kong with political implications. Journalists, lawmakers, and activists have been physically beaten as a form of political persecution in Hong Kong. In *Appendix B - Corrupted Criminal Justice System*, Alliance Canada Hong Kong (ACHK) will provide examples of the compromised judicial system, especially in dealing with assault cases against pro-democracy figures. Here are some examples of a series of coordinated attacks since the start of the democratic movement in June 2019. Note that, these attacks are only the tip of the iceberg, but most violent attacks against local activists are not recorded by mainstream (English) media.

- Violent Attacks Against Journalists
 - August 2019 - A journalist and two other victims were stabbed at a Lennon Wall. The accused allegedly asked victims their views on extradition bill protests before launching knife attack (source: [Hong Kong protests: man arrested over stabbing of journalist and two other victims at Lennon Wall in Tseung Kwan O tunnel](#))
 - September 2019 - A reporter at a pro-democracy news outlet was attacked by four men (source: [Reporter at Hong Kong's pro-democracy Apple Daily paper attacked by four men](#))
- Violent Attacks Against Lawmakers
 - June 2019 - Lam Cheuk Ting, a democratic lawmaker was attacked by pro-police supporters and sustained injuries to his abdomen and fingers (source: [Lam Cheuk-ting identifies suspects who attacked him](#))
 - September 2019 - Hong Kong pro-democracy lawmaker, Roy Kwong was attacked by three men. A fourth attacker was recording the assault with a camera (source: [Hong Kong pro-democracy lawmaker Roy Kwong attacked in Tin Shui Wai](#))
 - November 2019 - Unknown man with a knife slashed several people and bitten off part of the democratic district councillor, Andrew Chiu's ear (source: [Hong Kong mall clash ends in bloody knife attack and bitten off ear](#))

- o June 2020 - A former community officer of the pro-Beijing DAB party charged over knife attack at pro-democracy protest, allegedly wounding a journalist and a citizen (source: [Ex-DAB party activist charged over knife attack at pro-democracy protest](#))
- Violent Attacks Against Activists
 - o October 2019 - Hong Kong protest leader, Jimmy Sham was attacked by a group of five hammer-wielding men, left bloodied, and sustained head injuries (source: [Jimmy Sham: Hong Kong protest leader 'attacked with hammers'](#))
 - o October 2019 - China critics, Stanley Ho Jimmy Sham, Issac Cheng, and Davin Wong, are targeted in violent attacks (source: ['White terror': Hong Kong's China critics targeted in violent attacks](#))
 - o October 2019 - 19 year-old man handing out leaflets at 'Lennon Wall' was slashed in the neck and abdomen by assailant (source: [Hong Kong activist stabbed handing out leaflets at 'Lennon Wall'](#))
 - o March 2020 - Hong Kong activists, Hendrick Lui and Wong Ka Ho were assaulted by national security law supporters at a street campaign organized by Junius Ho, a pro-Beijing legislator (source: [Hong Kong activists attacked by alleged national security law supporters](#))
 - o April 2020 - Leung Kwok Hung, an ousted lawmaker, was stabbed while protesting outside of Beijing's liaison office in Hong Kong (source: [Ousted lawmaker 'Long Hair' Leung Kwok-hung stabbed while protesting outside Beijing's liaison office in Hong Kong](#))
- Suspicious Suicides
 - o September 2019 - Chan Yin-Lam was found in the sea in Hong Kong, naked. Although the police classified the death as a suicide, many are skeptical that the girl - who was a competitive swimmer - would have taken her own life (source: [Hundreds pay tribute to teenager Chan Yin-lam](#))
 - o December 2019 - Hong Kong protesters have been declaring "I will not commit suicide" in case they disappear and are found as a dead body, declared a 'suicide' by the police. Some have published statements on social media and set up automatic emails to friends and family, assuring that if they were found dead, it wasn't voluntary (source: [Hong Kong Protesters Are Declaring 'I Won't Kill Myself' Just in Case They Disappear](#))
 - o January 2020 - a motionless body was videoed being pushed out of the police quarters head first. Police declared the event as a suicide, but activists believe this was a coverup of the true cause of death (source: [Video shows suspicious 'suicide' in Hong Kong](#))

Surveillance of pro-democracy activists

Activists have been encouraging each other to be cognisant of police surveillance for many months. In recent months, many activists suspect that they are being followed and surveilled by the government and enforcement agencies. Surveillance is a common and known tactic of the Chinese government to silence and intimidate dissidents.

- Surveillance of Pro-Democracy Activists
 - June 2019 - HKPF has full access of hospitals' confidential information to identify protestors who are seeking medial support (source: [Police can access full details of injured protesters in hospital, says medical sector lawmaker following patient arrests](#))
 - September 2019 - Pro-democracy lawmaker Roy Kwong was followed, pulled out of his car, and attacked (source: [Hong Kong pro-democracy lawmaker Roy Kwong attacked in Tin Shui Wai](#))
 - October 2019 - Event organizers are being followed and would receive death threats to intimidate them for their activism (source: [In Hong Kong, protesters fight to stay anonymous](#))
 - June 2020 - Joshua Wong, a pro-democracy activist was followed and filmed by unknown men (source: [Security law: Hong Kong democrat and activist Joshua Wong say they were tailed and filmed by unknown men](#))
- Doxxing of Pro-Democracy Activists and Participants of the Protest Movement
 - October 2019 - Activists and their private information are leaked systematically for harassment and malicious intent (source: [Doxxing has become a powerful weapon in the Hong Kong protests](#))
 - November 2019 - Groups backed by the CCP are promoting a sophisticated anonymous website to doxx Hong Kong's pro-democracy figures, including but not limited to journalists, lawmakers, activists. Over 200 people's personal details are posted online since August 2019, when the site emerged (source: ['Bulletproof' China-backed doxxing site attacks Hong Kong's democracy activists](#))
- Cyber-Surveillance and Cyber-Attacks
 - December 2014 - Student leader, Lester Shum suspected that his phone calls and internet usage were being monitored by the CCP (source: [Hong Kong activists fear they are being monitored by Beijing](#))
 - June 2019 - Telegram experienced a heavy DDoS attack, citing most of the attack comes from China (source: [Telegram blames DDoS Attack on China](#))
 - September 2019 - Coordinated reporting platforms are employed to identify protest participants or activists and to direct that the information to China's Ministry of State Surveillance (source: [Telegram channels used to doxx and report Hong Kong protesters to Chinese authorities](#))
 - June 2020 - Hong Kongers worry the NSL will further encroach on civil liberties, fully transitioning Hong Kong into a surveillance state (source: [China's Great Firewall looms over Hong Kong as surveillance grows](#))

Suppression of Journalists and Free Media

There are clear deliberate attempts to discredit journalists and media outlets. The pro-Beijing camps have been targeting journalists, attacking and harassing them, as an attempt to suppress the freedom of information and intimidate reporters for their work.

- March 2019 - Ex-Chief Executive CY Leung, a state is attacking the pro-democracy media outlet Apple Daily on a daily basis (source: [Press freedom concerns as ex-leader CY Leung attacks firms advertising in pro-democracy Apple Daily](#))
- July 2019 - Hong Kong journalists were spat on, kicked, splashed with water and mud, and insulted at a pro-Beijing rally (source: [Hong Kong press groups condemn abuse of journalists at rally backing police's handling of extradition bill protests](#))

Suppression of Political Opinions in the Public & Private Sector (in Hong Kong & internationally)

The public and private sector have been playing a crucial role in the suppression of political dissent in Hong Kong and China. Activists are fired, punished, and silenced for any dissent, while allies are silenced and shamed into self-censorship.

- Inciting White Terror in the Workplace
 - o August 2019 - Rebecca Sy, the head of Cathay Dragon's Flight Attendants Association and a 17-year veteran, was fired for her Facebook posts (source: [A Cathay Pacific labor leader was fired for her Facebook posts on Hong Kong's protests](#))
 - o October 2019 - Ng Wai Chung, professional gamer known as "blitzchung" was banned and denied his winnings after saying "Five Demands, Not One Less" on livestream. The casters were also suspended by Blizzard (source: [What to Know About Blizzard, Hong Kong and the Controversy Over Politics in Esports](#))
 - o December 2019 - Education chief warns school principles against supporting teachers who may be fired over the pro-democracy protests (source: [Hong Kong education chief warns principals may be fired if they support teachers under investigation over protests](#))
 - o December 2019 - Over 80 teachers have been arrested over pro-democracy protests, at least 4 has resigned/suspended (source: [At least 80 Hong Kong teachers have been arrested over anti-government protests, as education chief reveals at least four have resigned or been suspended](#))
 - o January 2020 - Teachers' union is calling out the white terror perpetuated by the Education Bureau and pro-Beijing teachers (source: [Hong Kong teachers' union is one inciting 'white terror' not us, says Education Bureau](#))
 - o May 2020 - Employees of Chinese-owned businesses in Hong Kong are pressured to support pro-Beijing candidates in local elections. Those who speak out can be punished or even forced out (source: [In Hong Kong, China Threatens Businesses and Workers](#))
 - o June 2020 - H&M is unilaterally revising employee handbooks, warning employees that they will be fired for their online comments (source: [Hong Kong: H&M accused of unilaterally revising staff handbook and restricting employee's freedom of speech](#))

- o June 2020 - Teachers are being pressured to “immediately counsel” students to stop their participation in protests, or take disciplinary actions (Source: [Student's pro-democracy human chain protest cancelled after Hong Kong police warn schools](#))
- o June 2020 - Novem Lee Kwan-pui, secondary school music teacher was fired, for playing democracy anthem ‘Glory to Hong Kong’ (source: [Teacher fired from 'patriotic' school over democracy anthem 'Glory to Hong Kong'](#))
- Self-Censorship
 - o September 2019 - Zara posted on Weibo that it does not support workers’ strike (source: [Zara the Latest Brand Attacked as China's Tactics Turn to 'White Terror'](#))
 - o October 2019 - Vans withdrew a pro-democracy design on their sneaker design contest (source: [Vans faces Hong Kong boycott over sneaker design controversy](#))
 - o October 2019 - Apple removed an App that showed live updates on police locations, a safety feature created by and for protestors (source: [Apple Removes App That Helps Hong Kong Protesters Track the Police](#))
 - o October 2019 - Daryl Morey faced backlash for his “Stand with Hong Kong, Fight for Freedom” tweet. He later deleted the tweet and apologized for not being “well-informed” (source: [NBA manager's pro-Hong Kong tweet angers China](#))
- Proactive Supporters of the CCP Agenda
 - o June 2020 - Top HSBC & Standard Chartered executive announced the firm support of NSL (source : [HSBC is taking heat from all sides after backing China on Hong Kong](#))

Appendix B

Corrupted Criminal Justice System

Summary: Hong Kong's Basic Law theoretically guarantees judicial independence and personal freedoms. But Hong Kong's justice institutions have been severely wounded by Beijing. Hong Kong's judiciary is in a fight for its survival, as CCP officials redefine "rule of law" in servitude to its one-party rule. Judges are reporting that Hong Kong's judicial system is under increasing signs of stress, and that Beijing intends to bring the city's courts to heel.

The Hong Kong Police Force (HKPF) and judiciary have been shown to exercise politically-motivated biases, arbitrary arrests are reflected in the substantial arrest numbers, many are leading to convictions and discriminatory sentencing. Evidence from court cases also reveal a clearly compromised judicial system, which used to pride itself on being independent and neutral. Even a well-functioning judiciary would struggle with restrictions on freedom, arbitrary arrests, and selective prosecutions. Hong Kong's shadow of a judiciary has little hope.

HKPF's Systemic Abuse of Power

Reports on the policing during protests suggest a highly coordinated, politically-motivated effort to target all individuals on-scene, including protestors, third-party aides, and even local bystanding residents. Meanwhile, selective law enforcement means that law-breakers siding with Beijing are seldom arrested.

- Targeting Journalists to Suppress Media Freedoms
 - o May 2019 - Journalists were made to kneel and stop filming, Apple Daily's photojournalist was choked by the police for 20 seconds (source: [230 arrests and pepper spray in Mong Kok, as Hong Kong lawmaker injured during arrest and journalist 'choked'](#))
 - o July 2019 - Hong Kong Journalists Association and the Hong Kong Press Photographers Association issued a statement on police violence (source: [Joint Statement by Hong Kong Press Photographers Association and Hong Kong Journalists Association](#))
 - o September 2019 - The Foreign Correspondents' Club of Hong Kong expresses its deep concern over multiple reports of police violence (source: [FCC Statement Condemning Further Violence Against Journalists Covering the Hong Kong Protests](#))
 - o October 2019 - HKPF is targeting the press in their operations, beating down, gassing, and harassing journalists (source: [Hong Kong's Worsening Press Climate](#))
 - o October, 2019 - Journalist Vegy Meba Indah was blinded in one eye by a close projectile, which was fired by the police (source: [Journalist shot in face with Hong Kong police projectile will lose sight permanently in right eye, lawyer says](#))
 - o May 2020 - Committee to Protect Journalists is calling on the Hong Kong police to stop attacking and harassing journalists (source: [Hong Kong police attack and detain journalists covering protests](#))

- Targeting of Medics and First-Aiders
 - November, 2019 - 51 individuals were arrested during the siege of HK Polytechnic University, with HKPF claiming that they were all disguising as journalists or medics (source: [Hong Kong police arrest 51 who 'claimed to be medics or journalists' near besieged PolyU campus](#))
 - February 2020 - UN wrote to Chinese officials about the harassment, intimidation, and arrests of healthcare workers, including first-aid medics (source: [UN Makes Public Independent Experts' Fears Over Attacks on Hong Kong Medics](#))
 - April 2020 - Humanitarian medical workers have faced a shocking campaign of harassment, intimidation and arrest (source: [Even medics are targets for the Hong Kong police](#))
- Inappropriate Use of Force with Intentions to Inflict Serious Injuries
 - August 2019 - The usage of water cannons are not only physically dangerous, but also indiscriminately marks individuals that were present at the protests (regardless of purpose), leading to possible false accusations. (source: [Water cannons pose real danger in hands of trigger-happy Hong Kong police](#))
 - December 2019 - HKPF broke their own guidelines on use of force repeatedly, no officer or commanders are reprimanded for the clear violation of rules (source: [Hong Kong crackdown, police repeatedly broke their own rules — and faced no consequences](#)) (source: [Read the Hong Kong Police Force's guidelines on use of force](#))
 - May 2020 - South Asian man was killed in police custody. HKPF insists that they had used “appropriate force” (source: [Hong Kong suspect dies day after police used 'appropriate force' during his arrest](#))
- Mass Arbitrary Arrests
 - June 2019 - Chat group administrator was arrested for sharing information online, even though he never participated in protests (source: [Telegram group admin arrested in Hong Kong over anti-extradition protests](#))
 - September 2019 - Reports from Amnesty International have indicated that there has been an alarming pattern of arbitrary arrests without evidence, which further empowers the power abuse of the HKPF (source: [Hong Kong: Arbitrary arrests, brutal beatings and torture in police detention revealed](#))
 - November 2019 - Over 1,000 students are detained after the HKPF tried to advance into university campuses (source: [Hong Kong Protests: Over 1,000 Detained at a University, and a Warning From Beijing](#))
 - November 2019 - Human Rights Foundation calls for the end of arbitrary arrests and detention in Hong Kong (source: [Hong Kong: Police Must Stop Arbitrary Arrests and Detention](#))
 - February 2020 - HKPF arrested 115 people (source: [Hong Kong police arrest 115 after biggest outbreak of protest violence since coronavirus crisis](#))
 - April 2020 - Following the arrests of 15 pro-democracy activists, UN Human Rights are monitoring the mass arrests closely (source: [Hong Kong being watched 'closely' over activist arrests, says UN](#))
 - May 2020 - 360 are arrested in the business district during a lunch-time gathering (source: [Hong Kong police fire pepper balls at protesters and arrest 360 people for unauthorised assembly](#))

- o May 2020 - 180 are arrested for chanting pro-democracy slogans in protest against NSL (source: [Police fire tear gas and make 180 arrests as Hongkongers rally against national security law](#))
- o May 2020 - On Mother's Day, HKPF arrested 230 people, most were arrested for "unlawful assembly" (source: [Hong Kong police arrest 230 at Mother's Day protests, as local media groups slam treatment of journalists covering event](#))
- Compromised Police Oversight Agency
 - o November 2019 - International experts deemed Independent Police Complaints Council (IPCC) incapable to oversee HKPF (source: [Hong Kong's Police Watchdog Is Unable to Do Its Job, Experts Say](#))
 - o May 2020 - HKPF watchdog denies any wrongdoing of the HKPF, despite overwhelming reports and evidence of police violence (source: [Hong Kong watchdog absolves police over protest crackdown, dimming prospects of accountability](#))
 - o May 2020 - Amnesty International has documented the year of unnecessary and excessive use of force by the police throughout the Hong Kong protests (source: [Hong Kong: Impotent and biased IPCC report into protests fails to bring justice any closer](#))
- Overlooking Alleged Crimes by Pro-Beijing Supporters
 - o July 2019 - No arrests were made for mobs indiscriminately assaulting commuters at a local train station. Other sources reveal that the police ignored emergency phone calls for this incident (source: [Hong Kong police made no arrests after mob assaulted commuters, protesters, journalists in Yuen Long](#))
 - o October 2019 - Driver ran his taxi into a crowd of protestors, severely injuring multiple protestors. He received \$520K in donation from pro-Beijing groups (source: [Hong Kong taxi driver accused of ploughing into protesters to receive HK\\$520k from pro-Beijing group](#))
- Cyber-Surveillance and Cyber-Attacks
 - o June 2019 - Protestors are combating government surveillance with different tactics (source: [Hong Kong protesters go offline to dodge China's digital surveillance](#))
 - o June 2019 - HKPF is parroting Chinese police tactics, to survey, track, and limit digital communications (source: [Chinese Cyberattack Hits Telegram, App Used by Hong Kong Protesters](#))
 - o August 2019 - Protestors are combating facial recognition softwares with masks and face coverings (source: [Hong Kong Exposes Both Sides Of China's Relentless Facial Recognition Machine](#))
 - o May 2020 - Hong Kongers are signing up for VPN services to hide their digital tracks, in fear of the NSL (source: [Hong Kong Internet Users Flock to VPNs as China Prepares New Security Law](#))

Abuse of Detainees and Prisoners

Accounts from detained individuals have provided corroborating evidence of physical and sexual abuse during detention. Additionally, detainees were given delayed access to counsel and medical care, which is a significant indication of the human rights breaches in the law enforcement system.

- Physical & Sexual Assault

- o August 2019 - Hong Kong held a #ProtestToo protest to protest against police sexualized violence against protesters (source: [Hong Kong: Protesters join MeToo rally against police](#))
- o September 2019 - Amnesty International releases new report on protestors who were beaten and tortured by HKPF (source: [Hong Kong: Brutal beatings and torture in police detention - new evidence](#))
- o November 2019 - Sonia Ng spoke up about being groped during detention, and claims that '[she] isn't the only one' (source: [I'm prouder than ever to be from Hong Kong](#))
- o November 2019 - A 18 year old woman filed a complaint against HKPF alleging gang-raped during detention. Other sources suggest that the same woman received abortion at a local hospital (source: [Woman files complaint against Hong Kong police over alleged rape in station](#))
- o December 2019 - There are many allegations of sexual harassment and assault at the hands of HKPF officers (source: [Sexual violence against Hong Kong protesters – what's going on?](#))
- o June 2020 - Student K, 17 year old woman is speaking up about her sexual assault in HKPF custody on September 25, 2019 (source: [Teen accuses Hong Kong police of sexual assault during protest arrest](#))
- o June 2020 - 5 protesters telling own story of sexualized violence while in Hong Kong police custody (source: [Stand up Against the Raping of Hong Kong](#))

- Delayed Access to Medical Care

- o September 2019 - HKPF purposely delay access to medical care for those who have been detained (source: [Amnesty: Numerous Incidents of Violent Policing in Hong Kong Protests](#))
- o November 2019 - A human rights observer was denied access to food and water for 15 hours during detention (source: [Hong Kong police abusing power, says detainee | World](#))
- o November 2019 - The death of Alex Chow reveals that the ambulance services were delayed, possibly leading a delayed rescue (source: [Hong Kong police call for coroner investigation into student's death as university president demands explanation over ambulance delay](#))

- Denied Access to Counsel

- o September 2019 - HKPF purposely delay access to counsel for those who have been detained (source: [Amnesty: Numerous Incidents of Violent Policing in Hong Kong Protests](#))

- o September 2019 - Detainees were given delayed access to counsel, with police ignoring detainees' requests to contact lawyers, and lawyers reporting that police were not forthcoming about detainee information when they went to represent them (source: [Hong Kong: Arbitrary arrests, brutal beatings and torture in police detention revealed](#))

Compromised Judiciary Processes

While the judicial system in Hong Kong claims to be independent from politics, multiple court cases show concerning indications of politically-motivated biases against pro-democratic individuals, as well as an exertion of influence from the CCP.

- Concerns from Hong Kong's Legal Sector
 - o May 2015 - Judges show concerns over HK police arresting based on doubts and biases, and claim that it'll undermine judicial independence. (source: ['Occupy bias' accusation unfair to Hong Kong's judges, senior counsel say](#))
 - o August 2019 - 3,000 lawyers staged a rare protest against DOJ's selective prosecution of protesters, DOJ denied prosecutions are politically-motivated (source: [Hong Kong's lawyers march against 'political prosecutions' | World news](#))
 - o April 2020 - Three senior judges say that HK's judicial independence is under threat, and that Hong Kong's judiciary is in a fight for its survival (source: [Hong Kong judges battle Beijing on rule of law as virus halts protests](#))
- "Riot" Charges
 - o July 2019 - Since the 1997 handover, Hong Kong has charged 44 protestors with rioting. "Rioting" is an offence from Hong Kong's British colonial times, which criminalizes an individual's presence at the scene of a protest if the protest may become a breach of the peace, even if no damage to property or injury to any person has actually occur. A conviction can carry up to 10 years in prison (source: [Hong Kong charges 44 protesters with rioting](#))
 - o March 2020 - Of the 7,000 people arrested since Jun 2019, police have filed riot charges against more than 500, some as young as 13. Yet also facing trial are medics, first-aid volunteers, a cameraman, and several other social workers. Police are pursuing cases against hundreds of others accused of unlawful assembly, assault, arson, criminal damage, and an array of other offences as well (source: [The Other China: Emergency Hong Kong's courts long provided assurances of some transparency, even equity. For how much longer?](#))
 - o May 2020 - Some rioting charges are levied even when prosecution acknowledges no direct evidence (source: [First Hong Kong trial for protesters facing riot charges opens as prosecution concedes no direct evidence of trio's actions](#))
- Evidence of Politically Driven Charges and Conviction
 - o March 2020 - Ng Hei-lun was arrested for using a walkie-talkie to communicate with his fellow first-aiders, and faces a potentially two years in jail (source: [First aid volunteer at Hong Kong protest pleads guilty to unlicensed walkie-talkie use](#))
 - o April 2020 - 15 pro-democracy activists are arrested for taking part in unauthorized assemblies in August. It was deemed the largest crackdown on the

well known activists in Hong Kong (source: [Amid Pandemic, Hong Kong Arrests Major Pro-Democracy Figures](#))

- o April 2020 - Judge praises stabber of three people, at a Lennon Wall, for having high morals and deemed him a victim of the protests (source: [Hong Kong judge offers sympathy to man he jails for stabbing three people at Lennon Wall, while likening black-clad protesters to 'terrorist army'](#))
- o June 2020 - An overview of total protest-related convictions and arrests in the past year, with the youngest convicted being 12 years old (source: [List of Imprisoned Protestors, Hong Kong Watch](#))
- Courts are not designed for this degree of political persecution
 - o February 2020 - Between the three branches of Hong Kong's government, the judiciary has traditionally enjoyed more legitimacy than the virtually unaccountable executive and the crippled legislature. But the courts are not designed to and indeed are unable to address the massive social resentment that lies behind these protest cases (source: [Protest and punishment: How thousands of demonstrators are set to face Hong Kong's court system](#))

Exhibit A:

Memorandum on Arrests, Charges, and Convictions of Offences Related to Hong Kong Protests

June 25, 2020

Memorandum on Arrests, Charges and Convictions of Offences Related to Hong Kong Protests

Prepared by Alliance Canada Hong Kong and Ai-Men Lau

1. Summary

- 1.1. According to the Immigration and Refugee Protection Act, under Division 4 - Inadmissibility, section 2(b) deems that if a foreign national has been convicted of a criminal offence in their home country, they may be deemed inadmissible in Canada if the criminal offence would also be an indictable offence under an Act of Parliament. This eligibility criteria could come into conflict for HongKongers seeking to either apply for asylum or immigrate to Canada if they hold a criminal conviction or arrest relating to the Hong Kong protests.
- 1.2. In light of the HKPF's unreasonable practices of arrests, the low conviction rate and the lack of accountability, it is concluded that the criminal justice system in Hong Kong is compromised. The Ministry and relevant departments should not deem any record of arrest and/or charge related to the Hong Kong protests against the applicant as a reason for denial of admission when considering refugee or immigration application.
- 1.3. The prosecutions against pro-democracy protestors are politically motivated and discriminatory. Therefore, it is strongly recommended that the Ministry and relevant departments should regard a prosecution against pro-democracy protestor in Hong Kong as a form of persecution.
- 1.4. The statutory offences of "riot" and "unlawful assembly" in Hong Kong should be distinguished from the common law offences. It is suggested that the Ministry and relevant departments should carefully approach and consider the equivalency of the statutory offences of "riot" and "unlawful assembly" between Canada and Hong Kong. It is imperative to not create false equivalences between these two statutory offences as Hong Kong's judicial system is increasingly compromised.
- 1.5. The Ministry and relevant departments should NOT regard any arrest, charge and/or conviction against pro-democracy protestors in Hong Kong as a rationale to deny asylum claims or visas for Hong Kongers.

2. Purpose

- 2.1. This memorandum provides general information and analysis of arrests, charges and prosecution against pro-democracy protestors in Hong Kong from June 9, 2019, to May 31, 2020.

- 2.2. It is split into two main sections: background and legal context; and analysis of issues of (1) arbitrary arrest; (2) persecution by politically motivated prosecution; and (3) equivalency of offences against “public order” between Canada and Hong Kong.

3. Background and Legal Context

- 3.1. According to the Immigration and Refugee Protection Act, under Division 4 - Inadmissibility, section 2(b) deems that if a foreign national has been convicted of a criminal offence in their home country, they may be deemed inadmissible in Canada if the criminal offence would also be an indictable offence under an Act of Parliament. This eligibility criteria could come into conflict for HongKongers seeking to either apply for asylum or immigrate to Canada if they hold a criminal conviction or arrest relating to the Hong Kong protests.
- 3.2. Between June 9, 2019, and May 31, 2020, the Hong Kong Police Force (HKPF) made 8,986 arrests related to protests and demonstrations.
- 3.3. Most of the protestors in Hong Kong have been arrested, charged, or convicted of riot, unlawful assembly or possession of offensive weapons.

3.3.1. Rioting - section 19(1), Public Order Ordinance¹

When any person taking part in an assembly which is an unlawful assembly by virtue of section 18(1) commits a breach of the peace, the assembly is a riot and the persons assembled are riotously assembled. (*Amended 31 of 1970 s. 12*)

3.3.2. Unlawful Assembly - section 18(1)(2), Public Order Ordinance

- (1) When 3 or more persons, assembled together, conduct themselves in a disorderly, intimidating, insulting or provocative manner intended or likely to cause any person reasonably to fear that the persons so assembled will commit a breach of the peace, or will by such conduct provoke other persons to commit a breach of the peace, they are an unlawful assembly. (*Amended 31 of 1970 s. 11*)
- (2) It is immaterial that the original assembly was lawful if being assembled, they conduct themselves in such a manner as aforesaid.

3.3.3. Possession of Offensive Weapons, etc. with intent - section 17, Summary Offences Ordinance²

Any person who has in his possession any wrist restraint or other instrument or article manufactured for the purpose of physically restraining a person, any handcuffs or thumbcuffs, any offensive weapon, or any crowbar, picklock,

¹ Cap. 245, Laws of Hong Kong

² Cap. 228, Laws of Hong Kong

skeleton-key or other instrument fit for unlawful purposes, with intent to use the same for any unlawful purpose, shall be liable to a fine of \$5,000 or to imprisonment for 2 years.

(Amended 22 of 1950 Schedule; 21 of 1975 s. 3; 2 of 1984 s. 2; 68 of 1995 s. 48)

4. Discussion

4.1. Arbitrary Arrest

4.1.1. Amnesty International described cases of arbitrary arrests made by the HKPF

“Amnesty International interviewed two young women arrested arbitrarily in separate incidents in August when out to get food. In another incident in August, a young man went into a public bathroom while out with his girlfriend; when he emerged, anti-riot police were nearby. They arrested and beat him when he ran out of fear.”

“Most of the arrested people interviewed by Amnesty International did not know what behaviour they were engaging in that was considered suspicious or criminal at the time of [the] arrest.”³

4.1.2. Apple Daily reported cases of persons possessing household items being arrested for possession of offensive weapons or instrument fit for unlawful purposes under s 17 of the Summary Offences Ordinance. These items include plastic wrap, granulated sugar, flour, plastic tape, and other regular household items.⁴

4.1.3. There is no effective mechanism to monitor the HKPF and in any way hold police officers accountable for mistakes, such as the use of disproportionate force. Therefore, the arrests and charges made by the HKPF could not be supported or proved reliable.

4.1.3.1. Established under the Independent Police Complaints Council Ordinance⁵, the Independent Police Complaints Council (IPCC) was supposed to observe, monitor and review the handling and investigation of complaints against the HKPF.

4.1.3.2. Professor Clifford Stott, who sat on the international expert panel advising the IPCC before all of its members resigned last year over

³ Amnesty International, September 20, 2019, Hong Kong: Arbitrary arrests, brutal beatings and torture in police detention revealed, [url](#)

⁴ Apple Daily, June 11, 2020, 反修例案件定罪率僅49% 濫告管有非法工具成「新萬能key」 (Conviction Rate of Anti-amendment Protests Case was merely 49%; “Possession of Offensive Weapons” becomes new ‘universal’ charge), [url](#)

⁵ Cap. 604, Laws of Hong Kong

concerns about its limited powers, criticized IPCC for its lack of an independent investigative capability. He described that the IPCC had no investigative power, including the capacity to summon witnesses, and could only assess the credibility of probes by the force's own complaints division.⁶

4.1.3.3. Professor Stott also said he felt “manipulated” during his time of working in the IPCC's international experts panel.⁷

4.1.4. In light of the HKPF's unreasonable practices of arrests, the low conviction rate and the lack of accountability, it is concluded that the criminal justice system in Hong Kong is compromised. The Ministry and relevant departments should not deem any record of arrest and/or charge related to the Hong Kong protests against the applicant as a reason for denial of admission when considering refugee or immigration application.

4.2. Persecution by Politically Motivated Prosecutions

4.2.1. “Persecution” may be referred to as a threat to life or freedom on account of political opinion.⁸

4.2.2. In order to determine whether prosecution amounts to persecution, it will also be necessary to refer to the laws of the country concerned, for it is possible for a law not to be in conformity with accepted human rights standards.⁹

4.2.2.1. The United Nations Human Rights Committee (UNHRC) has repeatedly expressed their concerns regarding the application of the offences of riot and unlawful assembly in Hong Kong and their excessive restriction on Hongkongers' freedom of assembly and demonstration since 1999. However, no action has ever been taken on the part of Hong Kong to address these concerns.

4.2.2.2. In the UNHRC 2013 concluding observations, the UNHRC drew particular attention to the relevant crimes, concerned about “(a) the application in practice of certain terms contained in the [Public Order Ordinance], inter alia, ‘disorder in public places’ or ‘unlawful assembly,’ which may facilitate excessive restriction to the Covenant

⁶ South China Morning Post, May 23, 2020, Hong Kong protests: police used disproportionate force and made poor decisions, says British expert who resigned from IPCC review, [url](#)

⁷ The Standard, June 11, 2020, Former IPCC overseas expert: I feel manipulated, [url](#)

⁸ Article 33 of the Convention relating to the Status of Refugees. See also, United Nations, High Commissioner for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, HCR/IP/4/Eng/REV.1 at para 51.

⁹ United Nations, High Commissioner for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, HCR/IP/4/Eng/REV.1 at para 59.

rights, (b) the increasing number of arrests of, and prosecutions against, demonstrators...¹⁰

4.2.2.3. The construction of the relevant statutes for “unlawful assembly” and “riot” has remained substantively the same since 1967¹¹ despite the UNHRC’s effort in calling for a review.

4.2.3. Prosecution for an offence against “public order” can be regarded as a form of persecution of the individual on the grounds of political opinion when the prosecution is discriminatory.¹²

4.2.3.1. Apple Daily reported that the conviction rate of protest-related cases since June 9, 2019 was 49%, far less than the conviction rate of Magistrates’ Courts in 2018, which was 71%.¹³

4.2.3.2. Radio France Internationale (RFI) reported that the withdrawal rate (prosecution being withdrawn after entering judicial procedures) of protest-related cases since June 9, 2019, was around 20%.¹⁴

4.2.3.3. Mr Marco Li Wai Kin, a practicing barrister in Hong Kong, pointed out that the extremely low conviction rate reflects that many prosecutions were made arbitrarily.¹⁵

4.2.3.4. Mr. Wilson Leung, a legal practitioner from Hong Kong’s Progressive Lawyers’ Group, criticised the prosecutions of protestors by the Department of Justice as politically motivated, where pro-democracy protestors faced much more serious prosecution than those who were pro-Beijing.¹⁶

4.2.3.5. Over 400 suspected gangsters involved in the attack (on pro-democracy protesters, commuters, and residents) in Yuen Long on July 21, 2019: 35 people were arrested, they were not formally

¹⁰ United Nations, Human Rights Committee, 29 April 2013, Concluding observations on the third periodic report of the Hong Kong, China, adopted by the Committee at its 107th session (11-28 March 2013), CCPR/C/CHN-HKG/CO/3, [url](#)

¹¹ An amendment was made to the ss. 18 (unlawful assembly) and 19 (riot) in the Public Order Ordinance in 2013, but was only amended to make the sections to be in accordance to the fine levels stipulated in Schedule 8 of the Criminal Procedure Ordinance (Cap. 221, Laws of Hong Kong). The elements of these crimes remained exactly the same and have undergone no amendment or changes.

¹² *Supra* note 9.

¹³ *Supra* note 4.

¹⁴ RFI, June 11, 2020, 反修例運動1年控案定罪率一半不到警方涉濫捕濫控 (Conviction rate related to the anti-extradition laws amendment movement was less than half, HKPF is suspected to have abused arrests and prosecutions), [url](#)

¹⁵ *Ibid*.

¹⁶ Euronews, August 07, 2019, Hong Kong lawyer claims prosecution of protesters is politically motivated, [url](#)

charged and the offence they were charged with was “unlawful assembly” and “rioting”.¹⁷

- 4.2.4. Therefore, it is suggested that the Ministry and relevant departments should regard prosecutions against pro-democracy protestors in Hong Kong as a form of persecution.

4.3. Equivalency of Offences against “Public Order” between Canada and Hong Kong

- 4.3.1. The statutory offences of “riot” and “unlawful assembly” may be interpreted in a way that does not require “common purpose.” [cf. ss 63, 63 Criminal Code]¹⁸
- 4.3.2. Although the Court of Appeal in *HKSAR v Leung Tin Kei*¹⁹ (*Leung Tin Kei*) held that “common purpose” is an element of the statutory offences of “riot” and “unlawful assembly” in light of the common law, the court did not discuss the legislative intent of omitting “common purpose” as an element of these statutory offences.²⁰
- 4.3.3. There has been inconsistency within the case law in Hong Kong regarding the element of “common purpose,” and such inconsistency has remained unresolved and unaddressed at the time of writing. In *香港特別行政區訴莫嘉濤及另八人*,²¹ the District Court held that “common purpose” was not an element of the statutory offences, and this ruling was not overturned in the appeal to the Court of Appeal. [cf. *Leung Tin Kei* [2020]]
- 4.3.4. The statutory offences of “riot” and “unlawful assembly” in Hong Kong should be distinguished from the common law offences. It is suggested that the Ministry and relevant departments should carefully approach and consider the equivalency of the statutory offences of “riot” and “unlawful assembly” between Canada and Hong Kong. It is imperative to

¹⁷ *Ibid*. See also The Guardian, July 22, 2019, “Where were the police?” Hong Kong outcry after masked thugs launch attack, [url](#)

¹⁸ R.S.C., 1985, c. C-46

¹⁹ [2020] HKCA 275

²⁰ Then-Attorney General Denys Roberts introduced the Public Order Bill 1967 to the Legislative Council, which was intended to codify various provisions and common law principles regarding public order and safety into a single ordinance, including the common law offences of unlawful assembly and riot. In the First Reading of the Bill, AG Roberts, as he deemed that “[the common-law unlawful assembly and riot are] not adequate in certain respects for local circumstances,” distinguished the statutory forms of unlawful assemblies and riots from the common law. Without explaining the “certain respects,” he stated the following two distinctions between the statutory provisions and the common law regarding unlawful assemblies and riots: “[f]irstly, there will no longer be the necessary element of common purpose before a crowd is an unlawful assembly or a riot. Secondly, an unlawful assembly will become a riot if any person taking part in the assembly commits a breach of the peace.” Such legislative intent and distinction have remained unchallenged in the Second and Third Readings of the bill and survived a number of amendment occasions of the POO until today. See Hong Kong, Legislative Council, Hansard, Official Report of Proceedings, 1967 Session (1 November 1967) at 441.

²¹ [2018] HKDC 225

not create false equivalences between these two statutory offences as Hong Kong's judicial system is increasingly compromised.

- 4.3.5. Therefore, it is also suggested that the Ministry and relevant departments should carefully approach and consider the equivalency of the statutory offences of "riot" and "unlawful assembly" between Canada and Hong Kong.

5. Conclusion

- 5.1. The Ministry and relevant departments **should NOT regard any arrest, charge and/or conviction** against pro-democracy protestors in Hong Kong **as a rationale to deny asylum claims or visas for Hong Kongers.**

Appendix C Past Cases: Mong Kok Fishball Revolution in 2016 & Umbrella Movement in 2014

Summary: Against the backdrop of an undemocratic universal suffrage proposal by Beijing, Hong Kongers staged an unprecedented 79 day occupy movement in 2014 that would later be coined the “Umbrella Movement.” This saw the beginning of excessive force displayed by the police, partial treatment of violent counter-protesters and alleged United Front efforts coordinated by Beijing. The 2016 Fishball Revolution sparked a new wave of protests and clashes. Criminal justice system “weaponized” to punish political dissidents, disproportionate sentences and the first asylum seekers from Hong Kong after 1997.

Mong Kok Fishball Revolution in 2016

Sparked by police attempts to crack down on Chinese New Year food stalls, Hong Kongers came out in droves to support stall vendors. Clashes between protesters and police saw the start of the liberal use of rioting charges and asylum claims by political activists.

- A New Spark: Clashes, Arrests, and Injuries
 - February 2016 - 54 arrested, dozens injured and warning shots fired, incident coined “fishball revolution” (source: [Hong Kong's Mong Kok clashes: More than fishballs](#))
 - February 2016 - Continued investigation and arrests 74 people have been arrested. The youngest are two 14-year-old girls out on bail. More than 40 were charged with rioting (source: [Hunt on for 100 Hong Kong rioters who took 'active role' in Mong Kok mayhem](#))
- Alleged cooperation between police and violent civilian personnel
 - February 2016 - Housing complex management hired civilian “security managers” to forcefully remove unlicensed hawkers, attacked residents, and reporters on scene while police officers stood by and prevented others to get involved [sources: [Leung King Estate's market management files lawsuit against illegal hawkers](#) // [【短片】惡煞「管理員」暴力趕良景小販高永文避答](#) (in Chinese)]
- Rioting Charges “Weaponized” to Target Political Dissidents
 - February 2016 - Leader of “Hong Kong Indigenous” Ray Wong Toi-Yeung and more than 20 members arrested (source: [Hunt on for 100 Hong Kong rioters who took 'active role' in Mong Kok mayhem](#))
 - March 2018 - Charges of rioting and incitement to riot, justice secretary seek politicized and disproportionate sentences (source: [UK watchdog urges fair trials for Hong Kong activists; suggests stripping Justice Sec. of prosecution power](#))

- o June 2018 - Edward Leung Tin-Kei, convener of “Hong Kong Indigenous,” convicted and jailed for 6 years (source: [Hong Kong activist Edward Leung, the face of city's independence movement, jailed for six years over Mong Kok riot](#))
- o June 2018 - Disproportionate sentences in general: a demonstrator was sentenced to prison for 9 months for throwing 2 bottles of water at police, minor, senior and autistic individual sentenced for rioting (source: [Justice it ain't: The repercussions and implications of Hong Kong's Mong Kok 'riot' trials](#))
- Asylum Claims of Political Activists
 - o May 2019 - Activists Ray Wong Toi-yeung and Alan Li Tung-sing granted refugee status by Germany (source: [Hong Kong activists gain refugee status for first time](#))

Umbrella Movement in 2014

In response to the restrictive and undemocratic proposal of universal suffrage for Hong Kong by the Standing Committee of the National People's Congress, pro-democracy Hong Kongers took to the streets in September 2014. The protests eventually evolved into a 79 day occupy movement at the urban centres of Causeway Bay and Mong Kok. The movement saw excessive force displayed by police, partial treatment of violent disruptors and United Front efforts allegedly coordinated by Beijing.

- The Beginning of Strong-Arm Tactics by HKPF
 - o September 2014 - Peaceful protesters use umbrellas to shield themselves against the liberal use of pepper spray, batons and tear gas (source: [Hong Kong: Tear gas and clashes at democracy protest](#))
 - o October 2014 - Beating of subdued protester, Ken Tsang, caught live by major TV broadcaster (source: [HK police to investigate 'beating'](#))
 - o November 2014 - Police commander caught on film assaulting pedestrians (source: [Let's stick to the facts: The strange case of superintendent Chu King-wai](#))
- Police Officers Handed Lenient Sentences
 - o January 2018 - Retired police commander handed 3 month sentence for assaulting bystanders with his baton (source: [Retired senior policeman jailed three months for hitting Occupy protest bystander with baton](#))
 - o July 2019 - Police officers who assaulted Ken Tsang were originally tried and convicted in 2017. After lengthy appeals, 2 officers were acquitted in 2019 while the remaining officers had their sentences reduced to 15-18 months (source: [Two Hong Kong cops freed over activist Ken Tsang assault case, five others have jail terms reduced](#))
 - o Note: As shown above, while rare, a number of police brutality cases were investigated in the aftermath of the Umbrella Movement. This comes in stark contrast to the magnitude of ongoing police brutality where complaints were not entertained at all (source: [Hong Kong: Lack of accountability for police violence could fuel unrest](#))

- Partial Treatment of Violent Protest Disruptors
 - October 2014 - Police failing to protect peaceful protesters from violent counter protesters (source: [Hong Kong: Women and girls attacked as police fail to protect peaceful protesters](#))
- Alleged United Front Efforts to Interfere in the Protest Movement
 - October 2014 - Business leaders, many with interests in mainland China, were pressed to voice opposition for umbrella movement (source: [Hong Kong Tycoons Pressed on Protests](#))
 - October 2014 - Pro-Beijing groups appeared to be coordinated and allegedly paid (source: [Pro-Beijing groups are systematically attacking protests in Hong Kong](#))
 - November 2014 - Record breaking cyber-attacks on pro-democracy websites in Hong Kong (source: [The Largest Cyber Attack In History Has Been Hitting Hong Kong Sites](#))

[REDACTED]

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Appendix E

Restricted Freedom of Movement

Summary: With widespread arbitrary arrests, activists and regular Hong Kong citizens suddenly find themselves trapped in Hong Kong, facing imminent imprisonment with restricted freedom of movement. [REDACTED]

Canadian Politician: Detained by China

Richard Lee, former BC Liberal MLA from Burnaby, British Columbia (2001-2017) was detained and denied entry into China at Shanghai Pudong International Airport in 2015. Lee is speaking up about his experience at the Chinese border, where his planned vacation was cancelled (source: [B.C. politician breaks silence: China detained me, is interfering 'in our democracy'](#))

- Lee was detained for over eight hours, separated from his wife
- Officials confiscated and searched his government phone and accused him of “endangering national security”
- Officials asked Lee to disclose his passcode to access confidential information from Lee’s phone

Travel Bans

Travel bans are a common form of suppression by the CCP and the Hong Kong government since the pro-democracy movement started in 2019. Many of the travel bans are a bail condition to previous arrests and charges, which becomes a tool for suppression when used in collaboration with the HKPF’s mass arrest strategy. Here are some cases where individuals and activists from Hong Kong have their freedom of movement restricted:

- Compromised Freedom of Movement
 - o November 2019 - Courts refused Joshua Wong’s application to adjust his bail conditions, citing a high risk of absconding. Wong was going to London to receive a human rights award from the British Parliament (source: [Pro-democracy activist Joshua Wong banned by Hong Kong court from travelling to London to receive human rights award from British parliament](#))
 - o January 2020 - Agnes Chow’s appeal to dismiss her travel ban was rejected, after her arrest stemming from unlawful assembly charge on June 21, 2019. Chow was travelling to Japan to speak to university students (source: [Hong Kong's Agnes Chow defies travel ban in Skype appeal to Japan](#))

- o April 2020 - 15 pro-democracy leaders were banned from travelling out of Hong Kong, as they were arrested for taking part in illegal assemblies in August 18, October 1, and October 20, 2019 (source: [Amid Pandemic, Hong Kong Arrests Major Pro-Democracy Figures](#))
- o June 2020 - Apple Daily founder Jimmy Lai, among those charged over June 4 vigil, failed to have his travel ban lifted, citing COVID-19 (source: [Hong Kong court bars pro-democracy media tycoon Jimmy Lai from travelling to US citing coronavirus risk](#))
- **Border Arrests and Detentions**
 - o October 2016 - Joshua Wong was denied entry into Thailand at the behest of the Chinese government. Wong was expected to give a talk on his 79-day experience protesting during the 2014 Umbrella Movement (source: [Hong Kong activist Joshua Wong detained in Thailand 'at China's request' – reports](#))
 - o July 2017 - Hendrick Lui, a social worker, was arrested for reading Chinese dissident Liu Xiaobo's Charter 08 as he was waiting to enter mainland China. Lui was taken across the border without passing through official immigration proceedings. There were no entry records (source: ['No entry record': Hong Kong activist detained in Shenzhen after border protest for late dissident Liu Xiaobo](#))
 - o August 2019 - Andy Chan, leader of the banned pro-independence party, was detained at Hong Kong International Airport when he was trying to go to Japan (source: [Leader of banned pro-independence party Andy Chan arrested at Hong Kong airport](#))
 - o September 2019 - Zoey Leung, Vice President of Hong Kong Baptist University Student Union, was detained at the Melbourne airport while visiting as part of the student delegation of pro-democracy advocates (source: [Hong Kong democracy protester 'detained' briefly by Border Force as artists counter Beijing](#))
 - o September 2019 - Joshua Wong was arrested at Hong Kong International Airport as a result of a "bail mix-up". Wong was travelling to Germany and the United States to give speeches (source: [Pro-democracy activist Joshua Wong arrested at Hong Kong airport, says 'ridiculous circumstance' is result of bail mix-up](#))
 - o January 2020 - Lilly Wong was arrested at Hong Kong International Airport for her participation during the anti-extradition protest on July 1, 2019. Wong was travelling to Taiwan to observe their presidential election (source: [Pro-democracy Demosisto activist arrested at airport over storming of Hong Kong legislature](#))

Grandma Wong

Grandma (Alexandra) Wong is a well-known senior protestor from the start of the anti-extradition movement. Residing in Shenzhen, she would travel across the border to attend events and rallies in Hong Kong. She is currently awaiting trial in China.

- August 2019 - Activists and lawmakers are concerned over Grandma Wong's safety (source: [Worry mounts online over Grandma Wong flag waving fixture of Hong Kong protests](#))
- January 2020 - Grandma Wong is charged and awaiting trial in China (source: ['Inside the big cage': Hong Kong protester 'Grandma Wong' reportedly awaiting trial in Shenzhen](#))

Border Politics & CCP Overreach

Aside from borders being used as a tool to control freedom of movement in Hong Kong, the China border is also a key tool in suppressing dissidents.

- October 2019 - Chen Qiushi, a citizen-journalist, under pressure from the CCP, was ordered back to Beijing for his coverage of the Hong Kong protest. Chen was also in Wuhan to report on the COVID-19 outbreak, but his family and friends have lost contact with Chen for over 200 days (source: [Chinese lawyer Chen Qiushi, censured over Hong Kong social media posts, vows to keep speaking out](#))
- October 2019 - Huang Xueqin, a Chinese feminist activist, was arrested after visiting Hong Kong and writing an essay about the anti-extradition protests (source: [China arrests feminist activist Huang Xueqin after Hong Kong visit](#))
- June 2016 - Lam Wing-Kee, one of the booksellers at Causeway Bay Books, was arrested upon crossing the border into Shenzhen (source: [Full, complete transcript of returned bookseller Lam Wing-kee's press conference and Q&A](#))

Border Control: Denied Entries

The Hong Kong government has a long history of denying entry to individuals who are deemed as a threat to the CCP order, including but not limited to: human rights experts, activists, former foreign state officials, academics, journalists.

- January 2018 - Benedict Rogers, a human rights activist, planned to enter Hong Kong to visit Joshua Wong, Nathan Law, and Alex Chow in October of 2017, he was denied entry and Hong Kong immigration refused to provide answers (source: [Months after being barred from Hong Kong, Immigration refuses to provide me with answers](#))
- August 2018 - Wada Kenichiro, a Japanese city councillor who has expressed his Hong Kong pro-democracy stance, was detained for two hours at Hong Kong International Airport and denied entry for a two-day visit (source: [Hong Kong denies entry to Japanese city councillor months after Beijing attacked him for supporting democrat](#))
- November 2018 - Victor Mallet, vice-president of the Foreign Correspondents' Club of Hong Kong. Mallet's work visa renewal was rejected and he was also barred from entering Hong Kong as a visitor (source: [Senior Financial Times journalist Victor Mallet banned from entering Hong Kong](#))
- June 2019 - Feng Congde, former Peking University Student Leader at the 1989 Tiananmen Square Protests, was planning to attend a candlelight vigil commemorating the 30th Anniversary of Tiananmen Square Massacre in Hong Kong. Feng was stopped by immigration officers, despite having legal documents to travel to Hong Kong (source: [Exiled Tiananmen protest leader Feng Congde barred from entering Hong Kong for vigil](#))
- June 2019 - Albert del Rosario, former Secretary of Foreign Affairs of the Philippines (2011-2016), has criticized Chinese government's behaviour in the South China Sea in the past. Del Rosario attempted to enter Hong Kong on a diplomatic passport but was denied entry (source: [Manila says ex-Foreign Minister may have been denied Hong Kong entry over passport](#))

Alliance Canada Hong Kong

- September 2019 - Dan Garrett, a political scientist and author, who also testified to US Congressional-Executive Commission on China about protests in Hong Kong, was denied entry to Hong Kong for unspecified “immigration reasons” (source: [American author documenting Hong Kong protests since 2011 says he was denied entry to city for testifying before US Congress on anti-government protests](#))
- September 2019 - A priest from the Diocese of Yujiang was invited by Cardinal Joseph Zen to speak in Hong Kong regarding the underground Catholic church. They were barred from travelling by the Chinese government (source: [Amid Hong Kong protests, Beijing cracks down on some Chinese Catholics](#))
- December 2019 - Freddy Lim, a pro-democracy musician, was invited to perform at a music festival in Hong Kong. Immigration officials rejected his visa application, citing he did not “possess a special skill, knowledge or experience of value” (source: [Hong Kong says pro-independence Taiwan band member barred as he lacks ‘special skills, knowledge or experience’](#))
- January 2020 - Matthew Connors, an American photography professor, was planning to enter Hong Kong for a third time to cover the anti-extradition protest. He was barred from entering Hong Kong (source: [US photography professor who covered ongoing protests barred from Hong Kong](#))
- January 2020 - Kenneth Roth, executive director of Human Rights Watch, was denied entry to Hong Kong. Roth was planning to announce Human Rights Watch’s Annual Report in Hong Kong (source: [Hong Kong Bars Human Rights Watch Head](#))
- February 2020 - Michael Yon, an American journalist, was barred from Hong Kong and sent back to Thailand. He had been covering Hong Kong’s anti-government protests during the second half of 2019 (Source: [American Correspondent Michael Yon Denied Entry to Hong Kong](#))

(first hand testimony)

ACHK was notified of multiple instances

Three separate cases are described below:

- [REDACTED]
 - [REDACTED]
 - [REDACTED]
- Their safety was in jeopardy as they were being followed. MP Genuis’ office has been notified of this case [REDACTED] safety in Canada.

Exhibit D: Taken September 8, 2019, at the Airport Express, the subway line that connects Hong Kong city centre to the Hong Kong International Airport

[REDACTED DOCUMENT]

Appendix F

Precedent for Refugee Claims from Hong Kongers

Germany - Granted asylum to two Hong Kong activists who were facing rioting charges at home. Ray Wong, 25, and Alan Li, 27, were granted refugee status in May 2018, making it the first apparent case of a foreign country acknowledging refugee status for democracy campaigners from Hong Kong.

Sources:

- [Germany grants asylum to two Hong Kong pro-democracy activists](#)
- [Hong Kong activists gain refugee status for first time](#)
- [Germany grants asylum to 2 Hong Kong pro-democracy activists](#)
- [Fugitives granted asylum in Germany say they faced 'unfair trial' and call on international community to oppose Hong Kong's extradition bill](#)

UK - Simon Cheung fled Hong Kong after being detained and tortured in China. He is now living in London and seeking asylum in the UK. UK is also preparing to offer a path to citizenship to those fleeing Hong Kong.

Sources:

- [China tortured detained British diplomat, says UK government](#)
- [Three million Hong Kong residents 'eligible' for UK citizenship](#)
- [UK could offer 'path to citizenship' for Hong Kong's British passport holders](#)
- [Hong Kong visas: why is the UK standing up to China now?](#)

Canada - Forty-six people with Hong Kong citizenship applied for asylum claims between Jan 1, 2019 and March 31, 2020. The claims, which are all pending, were received at airports, Canada Border Security Agency bureaus, Immigration, Refugee and Citizenship Canada offices (IRCC), and Immigration and Refugee Board (IRB) across the country.

Sources:

- [Hong Kong protesters seek refuge in Canada](#)
- [To stay or go? Meet the Hong Kong protesters who fled to Canada to seek asylum](#)
- [Facing Beijing's new security law, will more Hong Kongers seek asylum in Canada?](#)

Taiwan - Nearly 200 Hong Kong people have fled to Taiwan since protests flared last year and about 10% have been granted visas under a law that protects Hong Kongers who are at risk for political reasons. Currently, Taiwan is readying itself for a new influx and is working on a humanitarian relief plan for the expected arrivals, officials say.

Sources:

- [Taiwan scrambles to ready for influx from Hong Kong protests](#)
- [Hong Kong protesters flee to Taiwan to continue China resistance](#)
- [Today's Hong Kong, tomorrow's Taiwan: Protesters find help and sympathy across the strait](#)
- [Taiwan is the new home for Hong Kongers seeking political safety](#)
- [Protester who fled to Taiwan: 'Tell my family I'm sorry for the trouble I've caused. I will never return to Hong Kong'](#)
- [Hong Kong protesters who fled to Taiwan for safety worry about election outcome](#)