

**Senate Committee on the Judiciary, Subcommittee on Border Security and Immigration Hearing**  
**“Supporting Hong Kong’s Pro-Democracy Movement Through U.S. Refugee Policy”**  
**Wednesday, December 16<sup>th</sup>, 2020**

**Responses to Questions for the Record from Jenny Yang, Senior Vice President of Advocacy and Policy, World Relief and Co-Chair, Advocacy Committee, Refugee Council USA (RCUSA)**  
**Submitted on Tuesday, January 12<sup>th</sup>, 2021**

**QUESTIONS FROM SENATOR BLUMENTHAL**

**1. Do you support the passage of the Hong Kong People’s Freedom and Choice Act of 2020, H.R. 8428?**

We are fully supportive of legislative efforts to provide protection for those who are fleeing persecution. The Hong Kong People’s Freedom and Choice Act of 2020 would provide Temporary Protected Status (TPS) for Hong Kongers in the United States who cannot return to Hong Kong and also provide a designation for refugee status for those who have a well-founded fear of persecution by assertion of such a fear and a credible basis for concern about the possibility of such persecution. We believe both processes of providing TPS as well as refugee designation will allow those who cannot stay in Hong Kong or are living in a third country and cannot return to Hong Kong find safety in the United States while also helping Hong Kongers already in the United States. Providing TPS to Hong Kongers in the United States as well as designating certain individuals from Hong Kong as refugees is the right thing to do given the current state of affairs in Hong Kong and is in line with U.S. foreign policy towards Hong Kong.

**2. Please describe how the passage of the Hong Kong People’s Freedom and Choice Act of 2020, H.R. 8428, would help Hong Kongers in the United States, Hong Kongers domestically, and the Hong Kong freedom movement more generally.**

The Hong Kong People’s Freedom and Choice Act of 2020 provides critical safeguards for Hong Kongers who are facing persecution in Hong Kong and elsewhere, as well as Hong Kongers who are currently in the United States. This Act would help Hong Kongers in two critical ways- by providing Temporary Protected Status (TPS) for Hong Kongers already in the United State as well as designating certain residents of Hong Kong for refugee status. There are many Hong Kongers who are facing dire circumstances in Hong Kong and cannot remain in Hong Kong. They need various avenues of migration available to them in order to find safety and protection. While many countries are offering various pathways of immigration to protect those who cannot remain in Hong Kong, through this bill, the United States would ensure that our various immigration and humanitarian programs, including through refugee resettlement, are considered in order to help facilitate the movement of those who cannot stay in Hong Kong.

Many Hong Kongers who are currently in the United States are not able to return because they have engaged in political advocacy and speaking out against the national security law. They may be targeted and would face danger if they were to return to Hong Kong. The Secretary of Homeland Security may designate nationals from a specific country for TPS due to conditions in that country that prevent a national from returning safely. As was stated in the hearing, there are specific individuals already in the United States from Hong Kong who could avail themselves of such protection and may need to do so immediately given the current political state in Hong Kong right now. In addition, designating certain residents of Hong Kong for refugee status would help facilitate the processing of individuals as refugees through the U.S. refugee admissions program (USRAP).

## QUESTIONS FROM SENATOR BOOKER

**1. We are in the midst of the worst refugee crisis in history. Currently, there are approximately 70 million displaced people around the world who have fled their homes due to conflict and persecution. Amidst this, the Trump Administration has completely gutted the United States Refugee Admissions Program and recently lowered the refugee admissions cap to just 15,000 from 18,000 in the previous fiscal year. Aside from increasing the refugee admissions cap, what can the incoming Biden Administration do to revitalize the United States Refugee Admissions Program?**

The United States refugee admissions program (USRAP) is in dire need of reform. Over the past few years, the program has been systematically dismantled not only with various executive orders, travel bans, and the setting of the lowest refugee ceiling ever in the history of the program in FY 2021, but the shifting away of the program from one based on vulnerability to more restrictive categories of admissions based on humanitarian concerns.

First, the Department of State Bureau of Population, Refugees and Migration (PRM) must take immediate action to restore the United Nations High Commissioner for Refugees (UNHCR)'s Priority 1 referrals to USRAP and coordinate with UNHCR to dramatically increase referrals to restore the USRAP pipeline. UNHCR referrals typically make up about 75% of U.S. resettlement cases, so this change has significantly impacted the ability of the United States to welcome refugees. UNHCR is instrumental in helping the U.S. identify refugees who are in need of resettlement.<sup>1</sup>

Second, PRM must restore regional allocations for refugee admissions. In its FY 2020 and FY 2021 Presidential Determinations on refugee admissions, the Trump administration eliminated the traditional use of regional allocations and instead outlined four categories of admission that are arbitrary and neglect the most sizable and vulnerable refugee populations such as Syrians, Somalis, Congolese, and others. These restrictive categories have made it impossible for the administration to meet the Presidential Determination goals. PRM should return to the use of regional allocations for refugee admissions, prioritizing the most vulnerable and in need of resettlement.

Third, PRM must increase efficiencies in overseas refugee processing. They should scale up overseas processing capabilities by coordinating with all agencies across the USRAP to increase staff capacity and reform policies and practices in order to meet the new admissions goal. Additionally, PRM should direct Resettlement Support Centers (RSCs) to increase pre-screening efforts and staff capacity, and ensure coordination with DHS to ensure as many cases can be processed as possible. In addition, PRM should work with DHS and other involved agencies to prioritize the review of all cases that have been approved but are on hold or stalled at various points in the resettlement pipeline; renew their approvals; and clear as many cases as possible so that they can finally be resettled in a timely way, prioritizing urgent protection concerns and family unity.

Fourth, PRM should remove resettlement agency limitations that impede operations. The Trump administration's dismantling of the USRAP's domestic capacity has shed light on the disproportionate vulnerability and burden placed on local resettlement offices. The existing affiliate funding structure that is entirely per capita-based creates enormous challenges in planning for future arrivals and in sustaining staffing levels and resettlement infrastructure, particularly when arrivals aren't predictable or consistent. PRM should ensure that, at the beginning of each fiscal year, each Resettlement Agency is able to access 100% of their administrative per capita based on their approved Consolidated Placement Plan (CPP). The

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<sup>1</sup> These recommendations are explained in more detail in the RCUSA Transition Report 2020 available here: <https://rcusa.org/wp-content/uploads/2020/11/RCUSA-Transition-Report.pdf>.

budgeted portion should be guaranteed funding and not tied to actual future arrivals. PRM should also remove barriers to efficient integration and community engagement by allowing for greater flexibility in resettling refugees outside of the 50 or 100 mile radius of a resettlement office. Placement decisions should be made based on the best interest of refugees, available jobs, and the presence of supportive community members and volunteers. In addition, PRM should incentivize innovation and holistically evaluate integration outcomes, rather than initial inputs. PRM should recognize that initial resettlement needs and approaches vary by population and location context, and evaluate programs accordingly. PRM should also consider expanding overseas programs that provide ESL training to refugees prior to arrival, as well as creating opportunities for higher-skilled refugees to become recertified or access extended learning even if at the expense of early employment.

Lastly, the White House should appoint a White House coordinator on refugee resettlement and develop a plan to meet the new refugee admissions goals in FY 2021 and beyond while also setting a robust budget for FY 2022 appropriations. The White House coordinator can ensure that all agencies involved in refugee processing are working together to meet the next administration's increased Presidential Determination (PD) on refugee admissions for FY 2021 and beyond to build back the resettlement program in a safe and efficient manner consistent with global resettlement needs and U.S. humanitarian leadership. The administration should also put forward a robust budget that not only appropriately funds overseas humanitarian assistance but also the critical domestic components that enable USRAP. Congress should support these aims by ensuring that programs - having been underfunded during the Trump administration - receive the necessary appropriations so that the United States can again lead the world on humanitarian protection.

The Department of State should request an updated FY 2021 budget of \$4,350,000,000 for the Migration and Refugee Assistance (MRA) account which includes support for refugees abroad, UNHCR resettlement referrals to the United States and other countries, and an increase to the Reception and Placement grants for refugees resettled in the United States. They should also request \$100,000,000 for the Emergency Refugee and Migration Assistance (ERMA) account and support increasing its authorized level to at least \$200,000,000. The Department of Health and Human Services (HHS) should also request \$6.34 billion for the Refugee and Entrant Assistance (REA) account. Such public funding is leveraged through public-private partnerships through the nine refugee resettlement agencies and is critical for refugee integration in the United States.

## **2. How should the United States work with other nations like the United Kingdom, Australia, and Canada to address the humanitarian crisis in Hong Kong?**

The United States should continue to work with the United Kingdom, Australia, Canada, and other countries to ensure that there is a strong humanitarian response to the situation in Hong Kong, including through strong multilateral diplomacy like the recent [letter](#)<sup>2</sup> from the foreign ministers of the United States, Canada, Britain and Australia condemning recent arrests of pro-democracy activists, and also through specific programs for those who face and could face persecution in Hong Kong.

The United Kingdom, Australia, and Canada are taking steps in the right direction. For example, the United Kingdom, will [make available](#)<sup>3</sup> a new visa starting on January 31<sup>st</sup> to Hong Kong British National Overseas

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<sup>2</sup> "U.S., Canada, Britain, Australia condemn Hong Kong Arrests of Activists," Reuters. January 9, 2021. <https://www.reuters.com/article/us-hongkong-security/u-s-canada-britain-australia-condemn-hong-kong-arrests-of-activists-idUSKBN29F025>

<sup>3</sup> Walsh, Peter William, "Q&A: The New Hong Kong British National (Overseas) Visa," The Migration Observatory at the University of Oxford. November 23, 2020. <https://migrationobservatory.ox.ac.uk/resources/commentaries/qa-the-new-route-to-citizenship-for-some-hong-kong-residents/>

citizens (BNOs) and their close family members. With this new visa, the UK government estimates that 5.4 million Hong Kong residents will be eligible to move to the UK and eventually become British citizens. In addition, Australia this past summer suspended<sup>4</sup> its extradition treaty with Hong Kong and opened up a pathway to permanent residency for Hong Kong citizens who wished to leave and go to Australia. They also have offered a five-year extension for Hong Kongers already in Australia who are students or skilled visa holders which also applies to future students and skilled visa applicants. Canada also suspended its extradition treaty with Hong Kong and opened up<sup>5</sup> new immigration pathways for Hong Kong youth to work or be students in Canada. They also are expediting Canadian permanent residents in Hong Kong to return to Canada at any time as well as family sponsorship.

The United States should encourage such efforts while also working with its own immigration processes to make them available to those from Hong Kong. The United States has traditionally been a world leader in refugee resettlement, but given the systematic dismantling of the program over the past few years, Canada recently surpassed the United States by resettling<sup>6</sup> 30,100 refugees in 2019 while the United States resettled 29,818 refugees in FY 2019. The United States should continue to encourage refugee resettlement in other countries and set a more vibrant example of a robust USRAP by increasing the PD to a recommended 125,000 and working to reach that PD with the appropriate resources and program reforms.

**3. As Senator Durbin aptly noted in the hearing, the application process for refugee status in the United States is quite lengthy. Relatedly, you said it is important that the United States not only look to the United States Refugee Admissions Program, but look for alternative ways for those who are facing immediate danger in Hong Kong to find protection in the United States.**

**a. What other means are at the United States government's disposal to provide protection to those in Hong Kong who are facing imminent danger?**

U.S. strong diplomacy in support of human rights is critical to ensure that at the highest levels of government the United States is communicating support and protection for Hong Kong dissidents. At the same time, we must ensure that every avenue of protection is made available for those facing imminent danger in Hong Kong.

The U.S. refugee admission process was originally created to be a nimble and efficient life-saving tool that could offer immediate protection for someone facing persecution. Currently, however, with the lengthy processing times for paperwork, background checks, and medical screenings, the process can often take 1-2 years if not longer. Because of these delays, the United States should not only make the refugee resettlement program more efficient but also consider other more immediate protection options for those facing imminent danger. The United States has the ability to offer humanitarian parole or significant public benefit parole to individuals from Hong Kong, and those individuals could arrive to the United States and then apply for

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<sup>4</sup> Watson, Angus and Griffiths, James, "Australia Suspends Extradition with Hong Kong and Offers Path to Citizenship for City's Residents," CNN. July 9, 2020. <https://www.cnn.com/2020/07/09/asia/australia-hong-kong-extradition-intl-hnk/index.html>

<sup>5</sup> "Canada Announces Immigration Measures Supporting Hong Kong Residents and Canadians in Hong Kong," Government of Canada. November 12, 2020. <https://www.canada.ca/en/immigration-refugees-citizenship/news/2020/11/canada-announces-immigration-measures-supporting-hong-kong-residents-and-canadians-in-hong-kong.html>

<sup>6</sup> Martani, Ervis, "More Refugees Arrive Through Private Sponsorship than Through the Federal Resettlement Program, a Troubling Trend that Highlights Weaknesses in Both Avenues," Policy Options. November 2, 2020. <https://policyoptions.irpp.org/magazines/november-2020/rebalancing-and-improving-refugee-resettlement-in-canada/#:~:text=More%20refugees%20arrive%20through%20private,highlights%20weaknesses%20in%20both%20avenues.&text=In%202019%2C%20Canada%20resettled%2030%2C100,of%20refugees%20admitted%20that%20year.>

asylum. The U.S. has established programs in the past like the Cuban/Haitian Entrant Program<sup>7</sup> or the Central American Minors (CAM) program<sup>8</sup> where those who are paroled in are eligible to apply for benefits and services from the Department of Health and Human Services.

The United State could also use other creative means to transport those in imminent danger out of the situation and process them as refugees in another location, like at Emergency Transit Centers. According to [UNHCR](#)<sup>9</sup>, in 1999 and 2000, for example, approximately 1,500 Tutsi refugees who were at risk in the Democratic Republic of the Congo (DRC) were evacuated to Benin and Cameroon where they remained temporarily while interviews were conducted by resettlement countries. Similarly, in 1999-2002, an evacuation to Romania was arranged when over 4,500 refugees from Bosnia-Herzegovina and Croatia were relocated to Romania for resettlement processing.

Lastly, in order to ensure that refugees fleeing Hong Kong are granted asylum in the United States, and not improperly denied, banned or turned away, the administration should immediately withdraw its recently finalized regulations and policies that ban, block and deny asylum to asylum-seekers, including bans or proposed rules that deny asylum to refugees who transit other countries on their way to the United States and deny asylum to people who fled “brief detentions,” repeated threats not yet carried out, or persecution deemed not sufficiently “extreme.”<sup>10 11</sup>

**b. Do you believe Temporary Protection Status for Hong Kongers in the United States is an important means to protect those who may be in danger? If so, please explain why.**

Yes, we believe offering Temporary Protected Status (TPS) for Hong Kongers currently in the United States is an important means by which those who could potentially face dire circumstances if they return to Hong Kong are not returned to an unsafe situation. The Secretary of Homeland Security may designate nationals from a specific country for TPS due to conditions in that country that prevent a national from returning safely. As was stated in the hearing, there are specific individuals already in the United States from Hong Kong who could avail themselves of such protection and may need to do so immediately given the current political state in Hong Kong. Providing TPS to Hong Kongers in the United States is the right thing to do given the current state of affairs in Hong Kong and is in line with U.S. foreign policy towards Hong Kong.

**4. How can the United States government make refugee processing more flexible to meet the needs of people in Hong Kong?**

The U.S. refugee admissions program is a strong bipartisan humanitarian tradition that needs to be reformed in order to truly be an effective and nimble program that can offer immediate, life-saving protection for refugees.

In order to help the people of Hong Kong and process them as refugees through the USRAP, the United States should consider in-country processing, evacuations, chartered flights, and bringing refugees to a

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<sup>7</sup> Cuban Haitian Entrant Program (CHEP). U.S. Citizenship and Immigration Services.

<https://www.uscis.gov/archive/cuban-haitian-entrant-program-chep>

<sup>8</sup> Central American Minors (CAM): information for Parole Applicants. U.S. Citizenship and Immigration Services.

<https://www.uscis.gov/humanitarian/humanitarian-parole/central-american-minors-cam-information-for-parole-applicants>

<sup>9</sup> Guidance Note on Emergency Transit Facilities. United Nations High Commissioner for Refugees.

<https://www.refworld.org/pdfid/4dddec3a2.pdf>

<sup>10</sup> Procedures for Asylum and Bars to Asylum Eligibility, final rule, Federal Register / Vol. 85, No. 204 / Wednesday, October 21, 2020

<sup>11</sup> Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review, final rule, Federal Register / Vol. 85, No. 239 / Friday, December 11, 2020

location outside of Hong Kong for processing if an individual is in immediate danger. Currently, the U.S. Consulate in Hong Kong or any U.S. Embassy in the world can refer an individual from Hong Kong to the USRAP. The Department of State can work with the consulate in Hong Kong, and embassies in the region, to facilitate refugee processing for vulnerable individuals. Fortunately, the USRAP has dealt with similar realities in the past and, with the leadership of the State Department's Bureau of Population, Refugees, and Migration, has been able to navigate them to bring people to safety, including in the cases of Amerasians resettled from Vietnam in the 1980s, Kurds fleeing Saddam Hussein in the 1990s, refugees from Kosovo in the early 2000s, and Cubans who were fleeing a Communist regime over several decades.

In addition to creatively thinking of how Hong Kongers can access the program, once Hong Kongers are in the processing pipeline, there needs to be improvements in processing capacities so they can arrive to the United States as quickly as possible. The Department of Homeland Security's (DHS) U.S. Citizenship and Immigration Services (USCIS) plays a key role in the protection of refugees and asylum seekers and other displaced individuals. The Trump administration's anti-refugee, anti-asylum policies have decreased USCIS's staffing devoted to good-faith processing of refugee and asylum applicants. Further, refugees that require Security Advisory Opinions (SAO checks) as part of their refugee security check process have seen a logjam that has prevented their cases from moving forward. This has resulted in enormous backlogs and significant delays in processing of applications. DHS must immediately and swiftly improve efficiency, transparency, and accountability, and provide better protection for diverse refugees and asylum seekers. This includes allocating sufficient staffing and resources to conduct and resolve security checks on a timely basis, expanding the Asylum Corps and Refugee Corps to allow for increased processing for both beneficiary populations, obviating the need for the respective corps to borrow officers from one another, thereby avoiding the creation of unnecessary backlogs, and enabling USCIS to use video-conferencing to conduct interviews in limited and exceptional circumstances where waiting for an in-person interview puts the refugee or asylum seeker at increased risk.

Both the Department of State and the Department of Homeland Security, in coordination with the White House, have a strategic role to play in facilitating a more efficient and nimble USRAP that can help vulnerable Hong Kongers and others at risk.

**5. What legislation do you think is required to address the humanitarian needs of other people who are oppressed by the Chinese government, including the Uyghurs and other similarly situated people?**

Any legislation that recognizes the significant discrimination and persecution faced by the Uyghurs and others oppressed by the Chinese government would be most welcome. This includes legislation that not only recognizes the detention, forced labor, harassment, and discrimination faced by Uyghurs but also facilitates their admission as refugees and eligibility for other humanitarian programs to the United States.