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Chair

Mr. Dean Allison

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• (1110)

[English]

The Chair (Mr. Dean Allison (Niagara West—Glanbrook, CPC)): Good morning, everyone. Pursuant to Standing Order 108 (2), we'll resume our study of the situation in Hong Kong.

I want to thank all our witnesses for being patient. We had some voting in the House, which is why we were a bit late starting. What I want to do is to introduce all of our witnesses first. We'll get you to read us your opening statements in the order in which I introduce you.

First of all, joining us as an individual, we have Yves Tiberghien, director of the Institute of Asian Research and assistant professor of political science at the University of British Columbia. He's is here in Ottawa. Welcome, sir. We are glad to have you here.

Also, joining us via video conference, we have Dalena Wright, senior fellow at the Ash Center for Democratic Governance and Innovation at the Harvard Kennedy School. I want to welcome you, Ms. Wright. Thank you for being with us today.

Also joining us via video conference, from Hong Kong, we have Alan Ka-lun Lung, chairman of the Hong Kong Democratic Foundation.

Also joining us from Hong Kong via video conference, we have Simon Young, a professor and associate dean of the Faculty of Law at the University of Hong Kong.

Gentlemen, we want to welcome you as well. We understand that it is late at night where you are, so thank you for adjusting your schedules to fit the timeframe of our committee. That's all the talking I'm going to do.

I'm going to start here in Ottawa with Mr. Tiberghien who's going to give us his opening comments, and then we'll move around the floor, as such.

Mr. Tiberghien, the floor is yours, sir.

[Translation]

Prof. Yves Tiberghien (Director, Institute of Asian Research and Associate Professor of Political Science, University of British Columbia, As an Individual): Mr. Chair, ladies and gentlemen of the committee, it is indeed a pleasure and an honour for me to appear before you today. I will give you the essentials of my comments in English, but I will be delighted to answer your questions in French if required.

[English]

Just to make a happy little correction, my title is actually associate professor and director, not assistant professor.

For background, I could also add that I did a lot of research on Hong Kong politics in the past. I was there in 1996 and 1997 as a Stanford fellow in law and negotiations. At the time, I had the pleasure of meeting all the party leaders, such as Martin Lee and others, who were there during the handover. Then I nurtured relationships over a long time. I've been watching the agonizingly slow pace of democracy in Hong Kong over many years.

I want to start by expressing my admiration for the students of the umbrella movement, as well as the professors and leaders behind the Occupy side of the movement. It's a remarkable mobilization that surprised many of us, in a traditionally non-politicized city. It's remarkable to have that many young people paying a big cost in their lives to devote themselves to the future of the political system in their city. When you think about it, the third-largest financial centre in the world and the key interface between China and the world economy was grinding to a halt because of the wrath of young people, which is remarkable. It was a grassroots youth-led movement, which initially was full of creativity, recycling and humour. There was civic order within the surrounding chaos. There was a sense of compassion, and suddenly, even an absence of pollution, birds singing. It was something quite historic and remarkable, and eventually it was disbanded relatively peacefully after 81 days. Nobody was killed despite the tensions and confrontations that appeared later in the movement. It's also remarkable that early on, after being pepper-sprayed and facing violence from the police, the students decided not to escalate and not to take over government buildings. They showed restraint. They showed maturity. It was something quite remarkable. So I wanted to start by giving them credit and expressing my true admiration toward them.

I'll just focus on a few points from the big picture as an analyst and scholar working on these issues.

First, one question I thought would be important to raise is why democratization has been so slow in Hong Kong. Why have we seen such a harsh position from the Chinese, in this case with the NPC ruling?

I want to give full pointers here and I'd be happy to do more later in questions.

The first—and we often forget it—is that there's a lot of internal politics within China around Hong Kong. It's the NPC, the National People's Congress, that has authority over the Basic Law and over the constitutional future of Hong Kong. The NPC is in the hands of one of the more conservative leaders in the Chinese collective leadership, Zhang Dejiang, who is ranked number three in the standing committee. He's the one who studied in North Korea and is known to be conservative. In general, he is an opponent of the more reformist figures in the Chinese system.

During some discussions I had in Beijing, there were hints that it could even have been a trap laid by this conservative leader for the more reformist figures, including Xi Jinping. I note this because once the ruling was issued on August 31, and the white paper in June before that, it put Xi Jinping in a very difficult position. If he recused it, he would be criticized for not protecting Chinese nationalism and Chinese patriotic interests, but if he stood by the ruling he would be behind something that was very harsh and that would hurt Hong Kong's standing in the global community and China's standing. It was a sort of impossible situation. We have to remember the battle between conservatives and reformists behind this.

Second, the NPC ruling is harsh and stretched the limits of the Basic Law, but it remained within the Basic Law. In fact, the ruling in August goes a long way in trying to justify how this still fits within article 45. We have to remember that this Basic Law from 1990 was the result of a compromise between the British and the Chinese and that the final version of it, which was a little tougher on article 45—we had article 23—was the result of a lot of ebb and flow after the Tiananmen incident in June, 1989.

•(1115)

Third, what are China's bottom lines? What really are the red buttons for China?

Number one, of course, is sovereignty—the fact that Hong Kong is part of China.

Number two, there is this long second line of resistance to foreign intrusion; there tends to be a reaction to any sense of foreign intrusion, as we have seen in this process, even if it was a wrong step here. We see strategic action-reaction cycles, and that's behind all of this.

Third, the top priority is really supporting the reform of Xi Jinping and, therefore, the standing of Xi Jinping within his own national system. Anything that helps, they support, and anything that hurts, they tend to oppose.

Fourth and ranking below that, China then would rather have quality, autonomous leadership in Hong Kong, but subject to those first three conditions.

It's actually been a long interest of China to try to hand over leadership of Hong Kong to competent Hong Kong people, but it has had this dilemma ever since Deng Xiaoping, because it wants competent Hong Kong people to take over, while being patriotic and trustworthy with respect to the Chinese leadership, and it can't solve that equation. Actually I don't think it's pretty happy with the leadership it has now, just as the Hong Kong people are not happy with CY Leung. They haven't found how to square their own problem, which is to solve two things at the same time.

The next point, in terms of what's behind all this, is that in this context there is a deep mistrust currently among the democratic leaders of all stripes and even the reformists in Beijing, so that gap is partly what is behind the cycle of action and reaction and the difficulty on the Chinese side of coming up with something that's more progressive for Hong Kong.

The next question I want to address is what really happened with this umbrella movement/Occupy Hong Kong. I'm arguing that actually there were several crises that were building on top of each other, and I just want to make a few points on this.

At the first level when the planning for Occupy Hong Kong took place, led by Benny Tai Yiu-ting and Chan Kin-man, it was inspired by Occupy Wall Street. There is a strong economic component behind it. Talking to Hong Kong people and students, I could see that the issues are of rising inequality, including a lower sense of opportunity for the younger generation; a sense of an economy that is now more captured by the older generation, and the fact it's tougher for the younger generation to fit in; and prices going crazy and being inaccessible to younger people. A lot of that frustration was a big part of the planning. There was also frustration with environmental issues. That is number one.

Number two, there is a crisis of identity with respect to the mainlandization that has happened over the last 10 years, with a large influx of Chinese tourists with lots of money, buying real estate, and buying all the luxury goods, with more and more confrontations in the streets and confrontation in hospitals where there are lots of babies being delivered. So there is a sense that the old Hong Kong polity is being diluted and taken over by this. That's a separate issue that has been a big part of motivating the young people that it is a crisis.

Third is a true crisis of governance, but it's in a bigger context. Essentially the old model of governing Hong Kong through the economic elite, tycoons, and selected professionals, which was inherited from the British—that's how the British ruled Hong Kong initially—is not accelerating democratization in the handing over to the Chinese. The Chinese we knew from the negotiations with Percy Cradock, and all this, were happy to take over that model and then still work through the economic elite. That is not acceptable anymore by the young people and, in general, by the majority of the Hong Kong people. They want more open governance with more access to larger sets of players.

There is also a crisis of leadership because of the 2012 selection of the chief executive, the fact that the current chief executive has low support and is not seen as having the calibre of what Hong Kong needs, as a modern metropolis of the 21st century. He is not of the right calibre.

The fourth level, then, is that democracy becomes the rallying call to solve all of those other problems. So there are a lot of policy problems that are bundled into a hope that changing the selection of leadership will allow a trickling down and solving of all the other problems.

•(1120)

Fifth, there are steep internal divisions within Hong Kong, and so today, when we face this new April 22 package, we still see a city that's divided between yellow and blue. The package today has 45% support, if we trust opinion polls, and 32% opposition, with the others not taking a stance. Essentially we have a city now divided into two halves, as we saw at the end of the Occupy movement.

At the end of the Occupy movement in November and early December, support for the continuation of the movement was down to 20%. By the way, a lot of that division is age-based. The young people are still fully behind a much more aggressive approach to pursuing democracy, whereas the people above 40 years in age are less supportive.

Finally, the democracy movement is really multi-layered now, a very diverse, pluralistic movement with at least four groups.

We have the old Democratic Party base with Martin Lee, whom I've followed for many years, and a very close friend of mine, Kevin Lau Chun-to, the former editor of *Ming Pao*, a former assistant. He is the one who was attacked by the triads last year. I met him again this year; he's recovering. So we have this old guard, and we know Martin Lee has been trying and trying and has faced a difficult time.

Then there are what I call "the new brooms": Benny Tai, Chan Kin-Man, and the Reverend behind the Occupy planning. They planned it for over a year. It was wonderfully planned, as inspired by Martin Luther King, Gandhi, and Occupy Wall Street.

Then they were themselves in a way caught off guard by the younger generations. There we have two groups: the university students, the Hong Kong Federation of Students led by Alex Chow; and then the high school-based students, Scholarism with Joshua Wong. They're the ones who then really delivered the people on the street, because it was mostly young people.

So it's all these multiple layers, which also made it difficult to manage in the streets. Joshua Wong wanted to go further—be more radical, institute a hunger strike, and the like—whereas the Occupy leaders, Benny Tai and Chan Kin-Man, wanted to stop whenever there was a threat of violence.

I'm happy to answer questions. I just want to conclude by thinking aloud about what Canada can do in this complex context. What I really care about is how to improve the situation: how we can improve the lives and hopes of the young people and improve the model of governance.

Here are a few thoughts.

Number one, we want to avoid empowering the conservatives in Beijing, the Zhang Dejiangs. I think we have to be aware of that dispute within Beijing and of how we can empower the more reformist people who understand. There are people around Xi Jinping and Li Keqiang who understand that the model is not working, that governance has to be improved, and that they have to have a pathway to handing over to competent Hong Kong people. They are opposed by those more radical types.

Second, I think a key thing is to foster linkages between all the generations of democratic leaders in Hong Kong and at least the

reformists in China to defuse the mutual cycle of grandstanding and create more support in Beijing for the democrats.

Third would be to maybe sponsor events and venues for dialogue between democratic and student leaders and economic and policy players in Hong Kong. A big part of the fight is actually between the tycoons and economic elites of Hong Kong and the young generation and students and democrats. That can probably be mediated by some deliberative and innovative dialogues, which have not been good enough. Also, the Hong Kong government is not trusted by the democrats and the students.

Fourth may be to urge the Hong Kong government and China to use maximum leniency within the 8-31 package, the package handed down by the NPC. The NPC will not change it, not for a few years, so we're stuck with it. But there is still room for a lot of leniency within it, such as the selection of the 1,200 members, or the instructions given to the 1,200 members of the selection committee, to allow maybe three people to go through for the election. If there were that understanding very quickly, then maybe the democrats could not veto the package in the Legislative Council.

•(1125)

The Chair: Mr. Tiberghien, I need you to wrap up, if you can, very quickly.

Prof. Yves Tiberghien: Okay.

A final point is to have open-ended, low-key discussions, probably, but high-level discussions in Beijing from the Canadian side to encourage flexibility and innovation, while not triggering the button of the more conservative members in Beijing.

The Chair: Thank you very much.

We're going to go to Cambridge, Massachusetts, where we have Ms. Wright.

I will turn the floor over to you, and if you could do your best to try to stick to around seven minutes, that would be great. I know there are many things that need to be covered in a very short period of time.

I'm going to turn it over to you, Ms. Wright.

Ms. Dalena Wright (Senior Fellow, Ash Center for Democratic Governance and Innovation, Harvard Kennedy School, As an Individual): Well, it's easy to do, because I think the previous witness did a marvellous job of framing the issues.

I thank the chairman very much for inviting me today. May I also parenthetically thank the staff, who did an amazing job of dealing with all the logistics.

My own research is largely focused on the Sino-British negotiations arriving at the joint declaration in 1984 and the implementation prior to the British making their exit. Much of that story lies outside the scope of today's hearing, but not entirely. There are problems today that have their origins in decisions taken decades ago, and that makes them much more difficult to resolve today.

Let me quickly raise three issues.

When Britain left Hong Kong, in many ways it left a very admirable legacy. There were the obvious rights and freedoms—freedoms of speech, of assembly, of the press—and there was a bill of rights latterly enacted, and Hong Kong had an excellent judiciary. I think my colleagues on the panel in Hong Kong can speak to this more eloquently than I could.

Despite having a famously freewheeling economic system, there was at the time an effective regulatory system and an expectation that corruption, once detected, would be rooted out. And the city had an exemplary civil service.

In sum, these were the attributes left behind by a liberal democracy. But I think everyone who's here today understands profoundly that for these rights and these freedoms and expectations to endure and be refined over time, there has to be a governing body that believes in these freedoms and that guarantees and sustains them.

This is what Britain was unable to leave behind. They were unable to leave democratic institutions that might accomplish this. Constitutional development before handover was very tentative and was very shallowly rooted, and it has been difficult for such institutions as had been developed to flourish and deepen ever since the handover.

The reasons for this are complex, but essentially Britain started very late, the people of Hong Kong who were interested in governance at the time were divided, and China was the recalcitrant partner. China in those days accepted Hong Kong as it was, not as it might be, and they resisted democratic development. There hadn't been democratic development before, and they resisted its development later.

The solution, as a result, was to go slow, to maintain something of a hybrid that allowed for appointed legislators, indirectly elected legislators, and directly elected legislators, with the ratio of each changing over time in favour of directly elected legislators. In British times, this was referred to as convergence, as the through train, as the low solution, but in effect democracy would come. But when it might come was never fully stipulated, and that leads us to the problem today. Gradualism was the solution arrived at between China and Britain.

The problem with gradualism is that the end game must arrive, at some point. The people of Hong Kong have been waiting for a satisfactory, permanent, and truly representative form of government not just since handover, but indeed since 1984, when the first indirect elections were held in Hong Kong. The idea of attenuating the democratic process of slowly doling out reforms and waiting for China to accept and acknowledge Hong Kong's loyalty to China, albeit in Hong Kong's own fashion, has been going on for more than 30 years.

Even now the iterative process goes on. Whatever is decided in 2017 will not put Hong Kong's aspirations to preserve and protect its autonomy to rest. Time and again you see parties and organizations and think tanks, such as the Hong Kong Democratic Foundation, wrestling with this iterative process, offering compromise and fresh ideas and notions, but the process is very slow and very dispiriting.

This is why you end up having, as a previous witness said, the frustrations, the Occupy movement, this restiveness.

And what you have is a legislature that is only partly democratic. In fact, the people are electing the opposition rather than the government. The legislature, as a result, cannot effectively debate and influence policies put before them by the government.

• (1130)

Furthermore, with the chief executive selected by indirect means and vetted by China, there remains the sense in Hong Kong that there is no one protecting the city's autonomy, no advocate for the city's interest, and no opportunity to influence their own destiny. How, then, are the rights and freedoms guaranteed in the joint declaration to be sustained? And how does Hong Kong maintain its special character apart from China but within China without that advocacy and wisdom coming from within Hong Kong? This is the real dilemma that is faced in Hong Kong today.

This brings me to my second point, which is one on which the previous witness gave a beautiful explanation. The China of today is not the China that negotiated the joint declaration. I'm not here to burnish Deng Xiaoping's image. He was certainly no democrat, but he did not want to inherit a truculent population. He did not want to see the city's resources and sophistication dissipated, so he accepted considerable risks. Most important, he was unafraid of Hong Kong's separateness. It was enough that he had reunited an errant territory to the motherland, and he did not seek to make Hong Kong like any other Chinese city, and that's what's different today. The China of today does not see Hong Kong as Deng saw it. Often it is said that Hong Kong cannot have further democratic development because, first, it might spin out of China's control, and, second, because it would be a vanguard and further the interest in the rest of China for democratic development.

China doesn't have to favour Hong Kong's tycoons any more because it has tycoons of its own. China doesn't have to respect Hong Kong's educational system. It can blend into that system as in the university system. They have Shanghai to rival Hong Kong now, though in many ways Shanghai is not like Hong Kong.

In essence, the China of today, unlike the 1980s and 1990s and immediately after the handover, does want Hong Kong to be more like any other Chinese city, and it is not enthralled with Hong Kong's special character. This is new and it is especially dispiriting to all Hong Kong, not just to democratic activists.

Finally, Mr. Chairman, I would make the point that very recently a Chinese official in London argued that the joint declaration is an anachronism that has no utility, and it was relevant to the period prior to handover and has no meaning now.

Allowing that times change, this position is nonetheless untrue and it is sad to hear. It is sadder still that Britain had such a muted reaction to it. The joint declaration is a treaty, signed and ratified by the British Parliament and by the National People's Congress. It is registered as a formal treaty at the United Nations. The sun does not set on the treaty until 2047, and as Deng said, its relevance carries on thereafter.

More to the point, it is a document that affirms China's commitment to Hong Kong's way of life, its values, and its freedoms, and it stipulates Hong Kong's autonomy. If China can vitiate the treaty unilaterally because it is inconvenient or because it wishes to reinterpret its commitments, then what value have treaties and agreements negotiated henceforth? What meaning would a treaty have for the South China Sea or the East China Sea should it ever materialize? What certainty would a trade agreement consummated under the WTO guidelines have if such agreements could be undone when the terms seem onerous or inconvenient to China?

I close by saying I'm pleased that you were here today and the other day exploring these issues, even if they are left over from history. Also, I appreciate that Hong Kong's special consideration, special situation, is considered by all countries like Canada and the United States, which, when asked by Britain and China in 1984, easily and comfortably celebrated the terms of the joint declaration.

Thank you, Mr. Chairman.

• (1135)

The Chair: Thank you very much, Ms. Wright.

We're now going over to Hong Kong, and we will start with the Hong Kong Democratic Foundation, Mr. Lung.

I'll turn it over to you, sir, for seven minutes, please.

Mr. Alan Ka-lun Lung (Chairman, Hong Kong Democratic Foundation): Thank you for inviting the Hong Kong Democratic Foundation.

I'm a graduate of Wilfrid Laurier University in Canada, so I am particularly pleased to update the standing committee on the latest situation in Hong Kong.

The first point is on the current situation. There's really no good news to report. The proposed 2017 election reform is widely expected to fail. The bill is unlikely to get the two-thirds majority needed. It's really unfortunate that Hong Kong and Beijing cannot come to an agreement. It is unclear, if this proposal is rejected, how long we will have to wait before further reform for universal suffrage can be restarted under the basic law.

This disagreement is not good for Hong Kong. The consequences are that the political uncertainty that has been troubling Hong Kong for more than 30 years will remain unresolved, Occupy Central or street protest in one form or another will continue, and business confidence in Hong Kong will drop. This is not a good outcome for Hong Kong, for China, or for international interests, particularly business interests, in Hong Kong, and the worst case scenario could even be a script for the beginning of the end of Hong Kong.

What the pan-democrats want is fairly simple, straightforward, and easy to explain to a Western mind. They want genuine universal suffrage with no unreasonable restrictions on the nomination and election process, with a particular focus on no unreasonable screening on the nomination. What's being offered with this bill that has been tabled by the government falls short of this expectation. The government's proposal is a big step forward on the election process—one man, one vote—but a big step backward on the nomination process.

There'll be no TV debate for the pan-democrats this time. They wouldn't be nominated under the current proposal. It is widely expected that, once the bill is passed, there will be little room for reform in the future.

The pan-democrats, however, were not very good at communicating their objection. The advocacy of a total rejection of the 8.31, August 31, decision of the Standing Committee of the NPC is perceived as venomous attack and a rejection of China's sovereignty over Hong Kong—this is the perception coming from Beijing. The pan-democrats also made the mistake of not taking the “national security” of Beijing into consideration in their counter-argument.

From my assessment, what the central government in Beijing wants is that they genuinely—but in an ambiguous way—want the chief executive election proposal to pass. But, as the previous speakers mentioned, they will not give up national security concern as framed by the 8.31 NPC SC decision.

From the experience of the 2012 election by an election committee that will become the nomination committee, conservative forces in Beijing also felt that the chief executive candidates, once nominated, could not be controlled, not even in 2012, by Beijing. So the current one person, one vote proposal, which is sort of promoted as universal suffrage, is indeed a big step forward already and ought to be welcomed by people like me with open arms. Such thinking leads to a conclusion that allowing approved candidates to run in a “universal suffrage” election, almost like the Iranian presidential election system, is the maximum risk that the central government seems to be willing to take for now.

• (1140)

As for the strategy used by the pro-establishment camp to get the bill passed, the pro-establishment camp is prepared to influence or even twist public opinion to pocket the proposal. This is the so-called “pocket it first” strategy. The current strategy is to try to steal four or five votes to get it passed in the current form.

Trying to twist public opinion in this way is really an impossible task. The free press in Hong Kong is already publishing public opinion polls that are more intellectually honest.

In private meetings with foreign consul staff, senior constitutional reform officials in Hong Kong also expressed pessimism about getting the bill passed.

If the bill is passed in its current form by a margin of one vote, the result is not going to be any better. Hong Kong will still be in a very bad mood in July. Approximately 40% of the population, particularly the younger generation, will still feel disenfranchised and betrayed. This is why Occupy Central will keep coming back in one form or another.

As for the influence of the Canadian government, unfortunately, the Canadian government can't really help us because any open criticism of the Chinese government will be regarded as bad foreign influence and meddling in the internal affairs of China. Such meddling could even trigger tighter restrictions on the chief executive election nomination process.

At this moment, the only answer is for Hong Kong to come to an agreement with Beijing on its own about building a wide community consensus on a proposal that allows as close to universal suffrage as possible under the 8.31 NPC-SC decision, such as a joint nomination by the nomination committee and the Legislative Council. It makes it 50% approval of the entire list, but such a proposal is not considered by either side.

There is an optimistic note after painting a gloomy picture. I was told by a Canadian once posted in Hong Kong that the Canadian embassy in Beijing sometimes helps the Chinese government interpret what the Americans say to them. I suppose this is happening because the Chinese government finds it useful to get help to interpret the subtle language or cultural difference between the American and the Chinese. I imagine these things happen behind closed doors, and what was said would never be disclosed to the *South China Morning Post*.

A senior U.S. diplomat who once spoke at the Hong Kong Democratic Foundation—I think Dalena knows this person well—said to us that if Mikhail Gorbachev had a little piece of Hong Kong, the reform and opening of the Soviet Union could have been more successful.

On the situation in Hong Kong, it is still possible—we don't know yet, because nothing is happening yet—that Beijing may be willing to take a little bit more risk and turn the current “one person, one vote” proposal into genuine universal suffrage that conforms to the 8.31 NPC-SC decision. The outcome would be very different for Hong Kong in July, and for China's reform and opening journey just a little bit down the road.

Thank you.

• (1145)

The Chair: Thanks, Mr. Lung.

We are going to turn to Mr. Young, who is a professor and associate dean of the Faculty of Law at the University of Hong Kong. Mr. Young, the floor is over to you for seven minutes, please.

Professor Simon Young (Professor and Associate Dean, Faculty of Law, University of Hong Kong, As an Individual): Thank you, Chairman and honourable members.

Let me begin by saying it's a real honour to be giving evidence today.

A quick word about my background. I'm sure many of you have already detected the North American accent. I'm sure some of the more perceptive of you will have detected the southwestern Ontario accent. So yes, I was raised, not born, in Canada. I went to law school there and qualified. My first job was with the Ministry of the Attorney General in the Crown Law Office-Criminal.

I came back to Hong Kong in 2001 and have been an academic at the university for the past 14 years. Although I teach criminal law in evidence, I do most of my research in Hong Kong—the legal system and the political system. I co-authored a book entitled *Electing Hong Kong's Chief Executive*.

In these next few minutes I want to focus on and talk about the political reform issue in the proper constitutional context. I think

that's very important to appreciate because there are very significant differences from other constitutional regimes—Canada's or others'. I think it's very easy to make certain assumptions about our constitutional regime that may be wrong. So I want to try to highlight what those first principles are in our constitutional regime.

As Ms. Wright has mentioned already, the history of democracy in Hong Kong has been very slow and late, but I wanted to focus this time on the executive leader. Because, of course, before 1997 the executive leader was the governor and there was never any opportunity for Hong Kong people to have any kind of input on the selection of the governor. The governor was chosen by the Queen on the recommendation of her ministers, and, hence, when we come to 1997—the 1984 joint declaration and 1990 Basic Law—you see a major change in this respect because for the first time the idea that the Hong Kong people would have some say in the selection of the chief executive became a reality.

Now, it's important to look at the words of the joint declaration. It doesn't refer to universal suffrage, it does refer to the power of the central government to appoint the chief executive of Hong Kong on the basis of either elections or consultations done locally. Then when it talks about the legislature, it talks about it being constituted by elections, and that's it. It doesn't say anything else about what form or shape those elections will take.

Then we come to the Basic Law, which is our constitutional instrument, so that's six years after the joint declaration. It has 160 articles; it's a fairly long document. It implements the joint declaration and does many other things as well in fleshing out the details. Now, here is where we find the first references to universal suffrage, and in this case we're talking about article 45 for the chief executive.

The most important thing to keep in mind is the idea that however Hong Kong selects the chief executive, it's ultimately for the central government to appoint, and the central government has repeatedly said that's a substantive power, that it's not just a rubber stamp. That is a fundamental feature of our constitutional regime. It's not like Canada where people in provinces vote and elect a premier, and there's no confirmation that has to come from the federal government. Here, there is such a confirmation process.

You have to get the central government to appoint that person who has been selected through elections. I think that is a very important reality we're dealing with, because this is how Beijing looks at it: what if you select someone that we don't approve of or we don't trust? There's going to be a problem, so they're not going to appoint that person. Do it again.

• (1150)

That can't just go on forever. It creates instability, and if you look at the terms of the Basic Law, it promises stability, right? That's very important to the Chinese government. Frankly, it's important to anyone. Hence, that's how they are looking at the situation: “We want someone that you elect that we don't have to turn away. How can we ensure that?” So they focus their attention on the nomination process.

Before I come to the current debate, let's just look at the history of the selection of the chief executive. The Basic Law provides for a system of electing the chief executive through a committee. First it was known as a selection committee, consisting of 400 people. That was the committee that put in place the first chief executive. There was a mini-election amongst those 400 people. It's the so-called small circle election that's often criticized about our system.

That committee grew to 800 people next time around in 2002, but there was no election because no one ran against Mr. C.H. Tung. Again it highlighted the problems of that system, but there was a committee made up of 800 people that had a base of maybe about 200,000, so for the first time you had some public involvement in the choice of that person.

Then there was an opportunity to reform that and to make the committee bigger in 2005, but to do that you had to amend the Basic Law. The amendment formula involves a three-step process. You have to get two-thirds of the legislators, consent of the chief executive, and finally the approval of the central government.

In 2005 when the democrats were given a proposal to try to make that committee a bit bigger, a little bit more "democratic", the democrats rejected it because they had that veto. That was their first sort of attempt to try to amend the Basic Law.

What was surprising was that people thought that was the end of democracy. What was surprising was that in December 2007 it was Beijing pretty much on their own, but probably with some impetus from the then chief executive Donald Tsang, Beijing in a decision said that they could have democracy of the chief executive in 2017. They also said that they had to do that first before the legislature was going to be democratic.

That takes us then to 2007, the first time we had an election. Then 2012 was when we had the second election. Before 2012 there was another opportunity to amend the Basic Law. Of course, circumstances were different because we now know that in 2017 we may have universal suffrage, so democrats were a bit more willing to compromise. Hence, the election committee was expanded to 1,200.

That takes us to now, because the August 31st decision is a decision that sets down three restrictions. It speaks to Beijing's aim to ensure that whoever ultimately is selected is someone who's not going to confront Beijing. They feel the way to do that is to have very a controlled process over nominations. That's where we come into the fundamental problems we see with society and society's expectation to have a much more democratic system, one that adheres to the International Covenant on Civil and Political Rights which, of course, has been implemented in Hong Kong through our bill of rights, and at the same time perhaps not fully understanding the dynamics of what Beijing feels is important when it comes to governance.

• (1155)

That's where we're at. Occupy Central happened and now we're at this, as I think Alan has already explained very clearly, very tragic situation. Both sides are not even talking, not even trying to explore ways in which you can have a more democratic system within the August 31 framework. I'm one of the scholars who have tried many times to propose different ways of maybe having a better balanced

system that, on this first attempt, would certainly be an improvement to our existing system and would allow us to move forward. But unfortunately it doesn't look like the two sides have sufficient trust to achieve any kind of progress. That I think is quite unfortunate.

I'll just stop here.

The Chair: Thank you very much, Mr. Young and to our witnesses, thank you.

We're going to now start as we normally do. The first round of questions will be seven minutes for questions back and forth and we're going to start with Mr. Dewar.

Mr. Paul Dewar (Ottawa Centre, NDP): Thank you, Chair, and thank you to our witnesses for their superb testimony. It is very helpful for our work.

Just to underline what our work is, this is the last of our three meetings on the situation in Hong Kong, from which we will be making recommendations in our report to Parliament. I also want to underline that we haven't mentioned in our hearings that Canada obviously has a very important role. Our witnesses are evidence of that today, of just the connection between Canada and Hong Kong.

But also, as we look back to the 70 years celebration of the victory in Europe, we also have to understand the historic role that we played during World War II and that no small sacrifice was made. I think it's a deep connection that we have. For those who wonder why we're doing this and its relevance, I think it's important to mention that.

Mr. Lung, I want to start with you. In a report that the Hong Kong Democratic Foundation filed with the Hong Kong government in March as part of the constitutional reform consultation, the foundation wrote that "a democratic Hong Kong is good for China". Based on the testimony we just heard and the importance of our not being seen to interfere inappropriately but rather being supportive, I wonder if you could explain a bit why you made this statement, why it is worthy of consideration. I ask because it is puzzling for some of us that there was a very clear road map laid out and that there's been a divergence from that road map as we know. That's what led to the protest and the Occupy movement. So I just want to hear from you why you think that a democratic Hong Kong is good for China. Could you make that argument, please.

Mr. Alan Ka-lun Lung: The first point is from China's internal problem solving point of view. For example, Hong Kong is really the least of their problems in terms of its chances of being separated from China. There are many potential "separatists", as they call them, and I think that in your last session the Dalai Lama was mentioned. The most problematic is Xinjiang and then there's Taiwan. Of course, the one country system was really first created for Taiwan by Deng Xiaoping.

So from that point of view, from the Chinese unification point of view, if Hong Kong becomes democratic it can solve the problem. If Hong Kong cannot solve our own problem when everything is promised for us... We're ready. We're matured. We're very international. What we're doing is actually very good for China. They have been copying our systems. For example, all of the financial system of China is the Hong Kong system. This process, even in the financial world, is continuing.

There is the innovation and technology part. China is very anxious to go up that path, but with their legal system, they cannot. There's no way to reform their legal system because of the political system. Many in mainland China know this. They give up. The way to solve it is... For example, there is the issue of IP protection. Most international companies as well as Chinese companies prefer to place their IP in Hong Kong to have Hong Kong ultimately protect it. So it's not just internal problem solving; it's down the road of their reform and opening. They will not copy us and we cannot force them to copy us. But they will take the reference of Hong Kong when they are ready to. We cannot tell them what to do. But everybody knows that we call Hong Kong the tail that is wagging the dog. Hong Kong with its little tail has the potential to wag the really big dog. So democracy is part of it.

• (1200)

Mr. Paul Dewar: Ms. Wright, I read your piece in *Foreign Policy* last year, and I will quote for the record:

Hong Kong's return to China in 1997 should have underscored China's resurgence and confidence—as the notion of one country, two systems was meant to showcase—but it has hardly been so. Instead, it's revealed Beijing's insecurity, and its propensity to attribute its troubles to foreigners who harbour designs on its financial centre

Could you expand on that? Building on what we just heard, is China missing an opportunity by failing to implement one country, two systems? For me, that is at the heart of this. This vision that was laid out of one country, two systems is really at risk here if they don't go back to what was promised.

Ms. Dalena Wright: I think you said it as well as I could have.

What I was trying to say in my testimony was that Deng had many negative facets to him, but he had a certain sense of security about Hong Kong. He recognized its value, not only its economic value but also its value to China, to Taiwan, to Macau, and to members of the international community who had to make decisions about where to locate their banks or their corporate headquarters. He did not worry as much as the current Chinese administration about the impact Hong Kong would have on China. He allowed the different provinces to send trade delegations to Hong Kong to see what they could work out in terms of foreign direct investment. He had a sense that its separateness would be of value to China. And that's what has eroded.

The wish now is to sublimate Hong Kong, to make it fit into China, to make it more like China, not to celebrate its separateness and autonomy. That's a sign of insecurity. It's a worry that it will contaminate the rest of China, that it will be a vanguard for democracy and that it will have a deleterious effect on China, whereas, as the previous speaker said, it can have a salutary effect on opening up the economy, on the legal system, on contract law, and on predictability. It's something to be celebrated. Not to celebrate it, to be so afraid of it, to see its population divided and truculent, and to see students so restive are not signs of security for China who perpetuates this.

• (1205)

The Chair: Thank you very much.

We're now going to move over to Ms. Brown.

You have seven minutes, please.

Ms. Lois Brown (Newmarket—Aurora, CPC): Thank you, Mr. Chair.

Thanks to all of our witnesses for being here.

Ms. Wright, I will pose my first question to you. In your remarks, you talked about this treaty being signed and ratified by China, the U.K., and the UN. You asked what treaties are really worth if they can't be acted on. If the treaties are ignored, undone, or not implemented, what role does the rest of the world have in commenting on this situation?

Ms. Dalena Wright: Yes, it's a very tricky one. As everyone has said, the ability of the Chinese to suggest foreign interference has been a neuralgic issue for Hong Kong since the eighties. The question was, would Britain deliberately destabilize Hong Kong after they left? Would democracy be a vanguard for British interests and not Chinese interests?

Foreign intervention has been a neuralgic issue even before now, and now it's used to dissuade a lot of countries from commenting. It is a tricky issue. As the first witness said, you don't want to play into the hands of the conservatives. You don't want to revive this notion that there's foreign intervention.

That being said, it would be a mistake—and I think the mistake has been made—for other countries to say, “Universal suffrage, isn't that a good thing? Isn't that what we all strive for? Isn't that something to celebrate?” Well no, not if you truncate it, minimize it, and diminish it, which is what's being done. That's why I come back to the treaty.

The treaty stipulates separateness; autonomy; and one country, two systems. It is a way for foreign powers to organize themselves around support for Hong Kong. Canada, the United States, and Japan were asked to openly support the joint declaration. They were asked to celebrate it. It is a way of coming at the problem and avoiding the tricky part of foreign intervention while reviving, celebrating, and remarking on the joint declaration. It is not a perfect way to get at this problem, but it is a way to deal with the tricky part of foreign intervention and the straw man.

Ms. Lois Brown: Thank you for those comments.

I toss my second question to the gentlemen, and ask you if you would comment.

Mr. Lung, you said that Canada cannot really help us, as it would be seen as meddling, and the only answer is for Hong Kong to come up with an agreement.

Mr. Tiberghien, you talked about some of the issues where you think Canada could help.

We have an enormous diaspora from Hong Kong and mainland China. Is the diaspora, first of all, as positioned on this as we see in Hong Kong or in China? We have graduated an enormous number of mediators in our country. Is there room for Canada to be part of the bridge-building here? Can we have a role in starting some discussions that may nurture something down the road?

I just turn that to each of you for your comment.

The Chair: We'll start with Mr. Tiberghien.

Prof. Yves Tiberghien: That's a great question.

I'm an optimist on this because already I've seen good quality dialogues happen at UBC, for example. We have students from both, Hong Kong and the mainland, and we have all kinds of diasporas, alumni, and all this. Clearly what Simon and Alan described is that there is even room within the 8.31 agreement. I think everyone here will agree that it's not realistic to expect the NPC to withdraw the 8.31 ruling until at least, I would say, the next party congress in fall 2017, in part because it would put Xi Jinping in a very, very hard position within the party in all this. After 2018, there is maybe hope for a nudge process, but for now that's the constraint. Clearly, there is room, as especially Simon's work has shown, for pushing the boundary of that 8.31 agreement. There's a lack of trust. There is a gap. The two sides in Hong Kong are not getting there.

Yes, I'm an optimist on this. Holding some public forums or nudging local partners and others in Hong Kong, anything that could incubate.... It looks like a place for mediation in the absolute term; then we have to do it the right way. But there must be a better way, as mentioned by Simon, for pushing the boundary.

The other aspect of it, which is something that's in the cart on the Chinese side and the Hong Kong government's side, would be to be very lenient in implementing or running that selection committee. But, of course, on the democrats' side, there's no way to take that as a credible commitment. How can you trust that they will actually...? On the actual selection of the members, yes, there will be 38 constituencies and all that. There is still room for nudging that to make it much more representative, closer to the public. There is room to nudge it, but I think the democrats cannot trust the government to do it. But that's still within the framework as well. Anything that could lead to quality dialogue, to lower a bit the temperature, and really explore all the possibilities to at least make it more comfortable for the 40% of the public and the democrats to support, or to find a way to change that bill and make it supportable....

The alternative, by the way, if we go as we are now, with two trains facing each other, and the bill fails, then in 2017 we would run the old system, which will probably lead to protests in the street and a lot of instability. But China will not budge either. So this is what we're looking at. I still think if we could nudge it a bit, the 2017 package, no matter what—having the one one-man, one-woman vote, having the election actually happen, even if there are only two or three candidates who go through the gauntlet—it would still have a massive impact, a spillover effect, I will call it. It's like when the French did privatization way back when. They did it partially initially, keeping control, right? But even partial privatization changed everything because it brought a whole momentum behind it. So I think that moving with an actual election would still have an enormous positive impact, but it's a matter of finding a way to make it more acceptable.

•(1210)

Ms. Lois Brown: Saving face for both sides.

Prof. Yves Tiberghien: Right.

The Chair: Thank you.

Thank you very much, Ms. Brown.

We're going to move over to Mr. Garneau, for seven minutes, sir.

Mr. Marc Garneau (Westmount—Ville-Marie, Lib.): Thank you very much.

Thank you to all the witnesses. You're certainly filling gaps in my knowledge.

I only have seven minutes, so I'm going to be fairly quick. I will hope you can be succinct in your remarks, and please don't consider me rude if I interrupt you.

My first question would be to Mr. Young. Has there ever been the notion floated of a compromise approach to this, such that Beijing would provide some nominees and Hong Kong could have its own nominees? Has that ever been put on the table, or is that out of the question?

Prof. Simon Young: If any compromise occurs, it has to be within the structure of the nominating committee. In fact, what just came out in April is quite interesting. I don't think people fully grasp the implications of it, because although the composition of this nominating committee is the same as that of the old election committee, the rules of voting are a bit different. It used to be the case that the nominating committee members could only choose one person, whether for nomination or election. This time around you have a low threshold to get people into the race, a 10% threshold—you get 10% votes from the committee. You may have up to five or ten people who then go up before the committee for the vote, to get to 50%.

That's what's interesting. In getting that 50%, for the first time the committee members can actually vote for more than one person, and that's never happened before. I think it's sometimes known as approval voting. What's interesting about it, and the way I've described it in an article, is that you have three types of voters in the nominating committee: those who vote for only pro-establishment people; those who vote for only the pan-democrats; and then those who are prepared to vote for both, maybe with the hope of having a more competitive election.

How big that chunk in the middle is we don't know. We know that those who only vote for the pan-dems may be about 16%. There might be enough there in 34% for a pan-dem to be nominated. There are many unknown questions there.

I think the best thing would be to just try the system, because ultimately it comes back to the question of the composition of that committee. Unfortunately, right now the government is not prepared to change it, but maybe the next time around it could be more liberalized. Maybe it could involve some directly elected members.

So there's lots of room for discussion.

•(1215)

Mr. Marc Garneau: Thank you.

Mr. Tiberghien, you suggested that perhaps there was not complete unanimity in Beijing itself with respect to how this process should go forward, in that there were conservatives and what I could perhaps call progressives.

Is there any chance that this is going to evolve in the direction of the progressives? Is this something that is a possibility in the years to come, that perhaps, if Beijing is not ready to budge this time, it might at the next election of a chief executive?

Prof. Yves Tiberghien: Yes, the game is open in the long term.

In the short term we have to remember that Xi Jinping is somewhat in a fight to the death right now. The real “top top” in his mind is to move forward with economic and social reforms to get out of the so-called middle-income trap and the terrible inequality. He has really big problems to solve, but he can't solve them without going after the state-run prices and some big interests.

It's partly to destroy the opposition that his party is using the anti-corruption campaign, but he's the first leader in 30 or 40 years who has taken on at the same time the head of the military, the head of internal security Zhou Yongkang, a major protégé of the previous leader Jiang Zemin. There are people who think that he's actually fighting for his life here. If he makes one wrong move, he could be either assassinated or.... It's a high-risk game right now.

Within that context, I don't think he has much room before the next party congress to give an impression that he's being soft on sovereignty. But after the next party congress, the game is—

Mr. Marc Garneau: That would be in 2018.

Mr. Lung, I have a question for you.

You mentioned polls. What is your sense of what the polls are saying at the moment with respect to the issue we're talking about today?

Mr. Alan Ka-lun Lung: The latest poll results appear in the footnote. On April 28th 2015, overall there was 47% support, 38% against, and 16% with no opinion. However, within the 18-29 year-old age group 65% were opposed. So the young people sitting in the back of the chamber are opposed. My son is opposed. They fear the future is being taken away from them.

It's very interesting that 55% of those with a university education are opposed, whereas 55% of those with only a high school education or less are support it. So it's the younger and more educated people who don't like it.

I agree with Yves Tiberghien, the previous witness, that the room hasn't been used fully. Even within the 8.31 NPC-SC decisions, it has not been explored fruitfully.

I'm not saying it must be my proposal, but there is room for improvement. Why is this not being explored by the Hong Kong government itself? Why is it not being negotiated by both sides? We don't know. For example, the proposal I submitted, which was not detailed enough, is that the nomination by the Legislative Council should screen it down to two or three candidates as a requirement of the 8.31 decision. This is effectively party nomination. There's no party law in Hong Kong; there's no way we can get party nomination because there's not enough time to create a party law. But this is effectively a party nomination. This is 100% compliant with ICCPR article 25.

Because the pan-democrats have more than 20 members, they will get in. But also, 50% approval of the list gives Beijing the power of

veto with its so-called national security concerns. It really serves to delete a candidate they don't like, but they would have to delete the whole list.

This theory is not our invention; it is an invention by the so-called group of 13 scholar. This proposal of list approval by 50% is actually an economic theory. They call it “game theory” because they think the nomination committee members are totally rational. If one is rejected by the committee, someone acceptable to Beijing could be included the next time before going to election. All this actually conforms to the 8.31 decision.

● (1220)

The Chair: Thank you.

Thank you, Mr. Lung, that's all the time we have.

We're going to start our second round, which will be for five minutes each.

I'm going to start with Mr. Trottier.

Mr. Bernard Trottier (Etobicoke—Lakeshore, CPC): Thank you, Mr. Chair.

Thank you for being here today with us.

Ms. Wright, I appreciated some of your comments and observation that China today is not the China that negotiated the joint declaration. A lot has happened since then, and at the time, Deng Xiaoping was unafraid of Hong Kong separateness. Today I think there's a certain reluctance to respect Hong Kong's unique identity for other reasons that are internal to China.

However, the fact of the matter is that, as you pointed out, this is a formal treaty recognized by the UN and other entities. The other important signatory to this treaty is the United Kingdom, and I was wondering if you could comment on what the United Kingdom has been doing to ensure that the treaty it entered into with China is being enforced.

I know there's an election right now in the U.K. and political signals might change. But over the last 15 years or so, what has the U.K. been doing to make sure that its treaty is being enforced?

Ms. Dalena Wright: I think sadly, very little. I think that certainly the party in power until possibly midnight tonight, has favoured commerce, has favoured trade. It's the sign of the times, and everyone's doing it. But they have had a very difficult time finding their point of intercession. What is their moment for speaking up for Hong Kong, or reaffirming the treaty, or asserting what rights they did retain for the oversight of the treaty? They've been very tepid on the subject.

I think you saw disharmony between members of Parliament who wanted a more robust response and the government, which did not. You saw something very unusual in London, which was the ambassador going after members of Parliament, and China's refusal to give visas to members of Parliament who wanted to do their own work or investigate the situation in Hong Kong.

These are not surprising responses. But there does not seem to be a will to find their moment. Where is the chance for the government, the Foreign Office, Parliament to find some common ground and stick to it?

My own government has done the same in the sense of truncating the policy, in the sense of congratulating China and Hong Kong on this move toward universal suffrage and being relatively silent on the elephant in the room, which is how delimiting the proposals are as they stand. You can't celebrate one part and be silent on another part.

Even if you're going to be judicious, even if you're going to be prudent, even if you're not going to be bombastic about it, you do have to find a solid set of proposals and espouse them.

Hugo Swire, the minister in charge, has said different things at different times. He has been inconsistent. He was much more robust a year ago than he has been recently. This is not healthy: at least find your ethical position, find your practical position, find your way forward, and then be consistent.

It's been hard for them to do.

•(1225)

Mr. Bernard Trottier: Thank you.

Mr. Young, you mentioned in your testimony that the words “universal suffrage” are not in the joint declaration. I guess in a way Hong Kong itself has moved beyond the joint declaration. It's looking for specific things.

Can you shed some light on that? Why was universal suffrage left out of the joint declaration? Was that something that the U.K. or the Hong Kong democrats demanded and it was negotiated out? Or was that never part of the vision in the initial joint declaration?

Prof. Simon Young: You're assuming it was left out. We don't know if anyone ever suggested it. I think the two parties, the U.K. and China were content that the word be “elections” and to keep it vague, with the knowledge that these things would be fleshed out later on.

But of course, you have to know that in the drafting process of the basic law, the constitutional instrument, which is a Chinese statute, the British were not involved. It was a process that involved the drafting committee made up of mainland members and Hong Kong members, but mostly mainland members. In that process they arrived at the words “universal suffrage”.

Who proposed it? We don't know because we don't have the minutes from the meetings. They're not available. It was in a Chinese process, as the Chinese will claim, that those words came out.

The Chair: Thank you very much for that.

We're now going to turn it over to Mr. Saganash for five minutes, please.

Mr. Romeo Saganash (Abitibi—Baie-James—Nunavik—Eeyou, NDP): Thank you, Mr. Chair.

I want to thank the witnesses today. Having been to Hong Kong on a couple of occasions, I can readily relate to what I've heard today. So thank you for that.

Mr. Tiberghien, in the reference document you submitted to this committee, you made the following recommendation:

In its official response to the situation in Hong Kong, Canada should stand by the principles of rule of law, the protection of human freedom and rights, and the orderly process set out in the Basic Law. It should also continue to encourage restraint and

the absolute importance of sticking to peaceful means, including in the government response.

[Translation]

As I am sure you know, the NDP made a motion in the House of Commons that was passed unanimously. The motion basically referred to the same principles, such as exercising restraint during demonstrations, respecting the existing agreement, the “one country, two systems” principle and a meaningful and constructive dialogue on electoral reform.

In your opinion, are there other means that the Government and Parliament of Canada could use to express support for these matters of principle that affect human rights and the rule of law in Hong Kong?

Despite the very positive tone you have used before this committee, I believe you said that the people who govern Hong Kong should be competent, autonomous and patriotic, all at the same time. But that seemed impossible to you.

Is that the case, and why?

Prof. Yves Tiberghien: Thank you. You raise a lot of tricky questions.

Let me just add a few words about the previous question. A book entitled *Experiences of China* by Percy Cradock explains a great deal about that. Percy Cradock was one of the British advisors in 1984. In his book, he explains that the British agreed that they would not implement a democratic process before 1997. There was an entire secret agreement behind it that was made public when Chris Patten became governor because he broke the promises revealed in Percy Cradock's book.

In terms of these difficult issues, it is true that it is a dance of a kind. A democratic country like Canada, which sees a lot of issues and human relations at stake, must be able to reaffirm all its values, principles and so on.

For instance, on September 28 of last year, we saw that the police response was not appropriate. That was definitely a baptism of fire for them. The police officers were not properly trained for a situation like that and they made mistakes. In such cases, it is true that a country like Canada can still take a strong stand and reaffirm its values, which still has an impact. It is not a direct intervention, since no one is dictating any course of action, but it does make a difference.

I think that one of Canada's great qualities is its ability to have a multicultural dialogue and debate. These are very strong qualities, multicultural mediation skills and so on. Canada needs to try to bring those forward. For the impact to be more far-reaching, perhaps we need to promote the win-win aspects all the time. We are aware of the challenges facing Chinese leaders but we are not trying to intervene. On the one hand, we want the reforms, but on the other hand, we want our values. So we continue to believe that it is possible to achieve both by encouraging dialogue.

Furthermore, we need to decide the issue of finding competent, legitimate people supported by the public and also trusted by Beijing. Beijing is not able to square the circle. One of the problems is that Beijing does not have good relations with all the democratic leaders and the new young ones. This is true not only for the more reactionary members, but also for the reformers.

How can these ties be encouraged? Significantly more dialogue is needed, from both sides. As a professor, I see that fewer young people from Hong Kong are now graduating with two degrees, one from China and one from Hong Kong, or trying to be trained in China while still being in Hong Kong. It is important to attempt to build those human relations because, today, the issue is one of trust. Competent people from Hong Kong are not able to reassure Beijing that, despite that competence, they have no desire to be the cause of secession or security problems. At the same time, Beijing cannot bring itself to trust them although the gap is actually very small.

As Simon and Alan said, it is very unlikely that a lawyer or a professional from Hong Kong who is close to the Democratic Party will be a secessionist or will want to threaten the integrity of China. However, he is not able to demonstrate that to China. So China is shutting out people who are not actually a real threat. That is the tragedy of mistrust.

•(1230)

[English]

The Chair: Thank you very much Thank you.

, Mr. Saganash. That's all the time we have.

We're going to finish off the second round with Mr. Goldring for five minutes, please.

Mr. Peter Goldring (Edmonton East, CPC): Thank you, Mr. Chairman.

Thank you to the witnesses for appearing here today.

Mr. Lung, I certainly agree with your notes and the statement you made here today. The Canadian government can't help us because it's considered to be a bad foreign influence, and of course that was spelled out graphically for us in the ambassador's letter. I also think it would be the same thing with the United Kingdom and the United States, for those countries to directly try to suggest....

There is another group, though, a group of parliamentarians from some 150 countries, the Inter-Parliamentary Union, which is somewhat attached to the United Nations in New York. Would this not be a body to take your concerns to directly? Perhaps everybody could benefit from it because you also stated relating that term "universal suffrage" to Iran's election is a bit of a stretch. Would it not be good to take this term "universal suffrage" and your issues and concerns to that body to get a form of resolution from them much like our report that we're going to be putting out? I'm not sure how directive it will be, but from a group of 150 countries' members of Parliament, I would think it would have far-reaching effect and would be very credible. What would you think?

•(1235)

Mr. Alan Ka-lun Lung: Unfortunately, Canadians can't help us. The Canadian government, Parliament, as well as your foreign service, has to position itself and careful of the backlash we might

get from whatever sort of open criticism we make, which we know is an action and reaction phenomenon.

I also suggest that Canadian diplomats have advised Beijing in a very indirect way on issues unrelated to Hong Kong. I really encourage your diplomatic service or whoever to do that and explain to them how they will be perceived if they just give Hong Kong a little more room, the benefit they would get from that. But open criticism of China from a foreign government, including this body of 150 parliamentarians, will not be taken well.

At the end of the day, it may not deliver the results, because we are very close, two months, and we have to get it to pass not by four or five votes, but maybe by about a dozen votes, meaning an absolute majority. That needs to be mediated.

Of course, Canadians have a mediation role, but mediators should do it very quietly. I would encourage the Canadian government to do that. That would be helpful.

Mr. Peter Goldring: Another note here too said that this agreement was to respect citizens' human rights for 50 years after the transfer of colonial rule. Is there a concern about that limitation of 50 years? Chinese philosophy being what it is, 50 years is a blink in time. Was there a reason why it was only established at 50 years?

Who would like that?

Mr. Tiberghien.

Prof. Yves Tiberghien: When we read Deng Xiaoping's speeches, at the time he said, "I'll give you 50 to show I mean business". He had this long-term plan that in 50 years China would develop and modernize enough to converge to the level of development of Hong Kong. That was his big idea. He also said said, "I could give you another 50", or "We'll see where it goes". China has not closed the door.

It came down from Deng Xiaoping as an image of a whole plan that he had for China. I don't think it was thoughtfully calculated.

The Chair: Thank you.

Thank you, Mr. Goldring.

We're going to turn over to Mr. Schellenberger now for five minutes, please.

Mr. Gary Schellenberger (Perth—Wellington, CPC): Thank you, and thank you to our witnesses here today. I heard Mr. Garneau say that he's been enlightened. I have also been.

Mr. Lung, how concerned is Beijing about alienating youth in Hong Kong?

Mr. Alan Ka-lun Lung: That is a shorter question than I expected.

I think Beijing is really, really concerned about losing a generation. From what I read immediately after Occupy Central, they're really, really afraid of losing Mr. Law, the chair of the student union, who I think testified here. I don't know why they have been, in their terms, "quite lenient" in trying not to criticize them. They blame it on economic development instead. They're really concerned and one of the motivations of Beijing is, how do they win back the confidence of this generation, because if they alienate me—I'm in my fifties already—how long do I have to live? It really doesn't matter. They can put up with me for 20 years, and I'll be dead. But the youth will live longer and losing a generation is really a big deal for them. This is why they have been in their terms "quite lenient" in their mind toward Occupy Central.

● (1240)

Mr. Gary Schellenberger: We've heard different versions of what might be done, but how would you envision a political compromise regarding election of Hong Kong's administration? Is there room to compromise, and what nomination process might Beijing tolerate that respects the preferences of Hong Kongers?

Mr. Alan Ka-lun Lung: There are many proposals on the table. Mine mine is not the only one. Simon and other people have proposed many things. I think the bottom line for Beijing is that it must conform to the August 31 proposal. The main thing is that they will not give up their deletion capability. It is not in the minds of the so-called western minority, the democrats. They see it as a sort of universal suffrage, a principle thing. Beijing sees it as a protection of sovereignty. In their mind they cannot accept someone who fights against China's interest becoming the chief executive. To be fair, they always had the power not to appoint; so 50% approval is really giving the dirty work to the nomination committee. You can see it this way. So will the majority in Hong Kong be willing to get that compromise? As Simon said, we're not an independent country. Beijing still has appointment power and unlike the provinces of Canada, where there is no appointment made by the government in Ottawa, there is an appointment process. It has always been in the basic law.

Mr. Gary Schellenberger: Thank you.

Ms. Wright, you've written that Hong Kong's inability to govern itself was set in motion by policies under British rule. Given how long gradualism has been the norm in Hong Kong's government, how long would it take to achieve full democracy? Is it impossible under current circumstances?

Ms. Dalena Wright: I think, yes. The answer is it is impossible under current circumstances. China would have to be a different China for democracy to flourish. It's not in the cards any time soon.

If I could just make one point that came up earlier about the early years and about universal suffrage and joint declaration, it should be known that China wanted no mention of elections or future governance in the joint declaration. This is why it remains such a long-term issue. They were taking a snapshot of what Hong Kong was in 1984 and that's what they wanted to continue and figured that governance and institutions would be decided on later in the context of the basic law.

It was Britain who said to China, you cannot get the support of the people in 1984 on the promise that something good will happen four

or five years later in the basic law. So they persuaded China to take some language on the subject of democracy or on the subject of future governance and they put forth any number of proposals in that summer of 1984. These were constantly rejected by China. The only reason they got what they got was that the deadline approached in September and the British finally came in with the language and China in desperation took the final version. For that reason it was not well considered, well thought out, or deeply significant language.

To amplify here that what Cradock was referring to in his memoirs was not an agreement to have no democracy by 1997. He was saying that they were not going to get out ahead of what the Chinese were willing to tolerate. But in the context of the basic law, the British did enter the process and did argue vehemently for more directly elected seats to set the bar higher in the years to come. So this is a very complicated history and it gets to your point, which is that it's been iterative since 1984 and it will go on being iterative for some years to come, I fear.

● (1245)

The Chair: Thank you. Thank you, Mr. Schellenberger.

We're going to move over to Mr. Dewar for five minutes, please.

Mr. Paul Dewar: Just to follow up on that notion, I want to go to Mr. Lung and Professor Young in Hong Kong. Are the current proposals being put forward by the Hong Kong authorities for the 2017 election of the chief executive compliant with Hong Kong's basic law and the spirit of the 1984 declaration?

Prof. Simon Young: The joint declaration doesn't say very much. It says elections or consultation.

Mr. Paul Dewar: Right.

Prof. Simon Young: So is it compliant on the letter? Yes. As for the spirit of it, we can go around in circles talking about that. But in terms of the basic law, again I think this is something you have to give China some credit for. They are trying to work with the language of article 45 and the previous decisions of the standing committee. If you look at the language there, it's generally consistent.

One thing I pointed out that is a bit of an anomaly is the two to three candidates. That, of course, is not in the basic law. As I've written, that is driven entirely by expediency. One of my most recent proposals to the pan-democrats is that they should counterpropose increasing that, maybe up to five, because there's a chance they may be able to get past the 50% threshold, but they're not going to be in the top three. They should increase the number of positions.

The two to three candidates is just a matter of expediency, but regarding the majority rule, there is language in article 45, and I can understand why they said that. Of course, the reference to the election committee goes back to one of their earlier decisions. So based on the text, there is consistency.

Mr. Paul Dewar: Mr. Lung, what do you think of that proposal?

Mr. Alan Ka-lun Lung: If a proposal, say, barred the Conservative Party of Canada from being nominated, the Conservative party would certainly oppose it.

On complying with the basic law, certainly that compliance...there is a major thing about the system. This is a constitutional issue and I will defer to the professor. It seems to be that even when there's a basic law, NPC has the power to enact new things such as the 8.31 decision and it becomes part of the basic law.

After having said that, even with the 8.31 decision of August 31, the proposal put forward by the government hasn't used up all of the room. It's still a very restrictive proposal. Why? We can only interpret that as a political decision. Even under the 8.31 decision, which is now part of the basic law, political decisions can give more room. A political decision must be negotiated, but no one is putting those negotiations forward—and this is a very graphic way of saying it—because of the experience of the Democratic Party who took the initiative to negotiate, I believe, in 19—

A voice: It was 2010.

Mr. Alan Ka-lun Lung: —yes, it was 2010. They are saying, “You want to me jump out the window”, because if they are perceived by their supporters as having compromised they will not be re-elected. If they ask four people to jump out the window, they won't. They want at least 12 people to jump out together. To get 12 people to jump out together it must be a more lenient, fairer proposal that is closer to what we understand as universal suffrage. Even under the 8.31 decision, which is now part of the basic law—which is why China is saying they will not change it—there is room for improvement.

• (1250)

Mr. Paul Dewar: Thank you.

The Chair: We're going to finish with Mr. Wilks for five minutes, please.

Mr. David Wilks (Kootenay—Columbia, CPC): Thank you, Mr. Chair.

I have one question for Mr. Lung and Mr. Young.

About two weeks ago in a speech to the Legislative Council on April 22, 2015, outlining and advocating for proposals, Carrie Lam, chief secretary for administration of the Hong Kong SAR government, stated that “It is neither practical nor realistic to expect that one package of proposals can meet the ideals cherished by different people.” She continued by noting that the proposals “are attempts to find the greatest common ground and strike the right balance amongst numerous divergent requests and perspectives.”

However, what caught my attention was that in her concluding remarks Ms. Lamb also commented on the need for legislators to weigh very carefully whether the passage of these proposals, or a standstill in constitutional development, would be a more favourable outcome for the overall and long-term interests of Hong Kong.

I wonder if you could comment on her closing remarks with regard to a standstill in constitutional development. Either one of you can start.

Prof. Simon Young: One of the things the government is pointing out is the irony that the pan-democrats are going to veto democracy. That's one of their driving points because, if you're a pragmatic person, I think you will appreciate that having some development is better than the existing system. But the pan-democrats are principled, and their principle is that they invoke the international standards reflected in the ICCPR, the International Covenant on Civil and Political Rights. Article 25 of that covenant says that everyone has the right to vote and to stand for elections without unreasonable restrictions. Their starting point is that each of these three restrictions in the 8.31 decision are unreasonable restrictions; hence, they all need to be removed.

So that's their principle, but they don't care what the policy impact or the practical impact might be of the change under the government's proposal. That's why we're stuck. Then, as Alan has just mentioned, they feel that if they went back on their principled position, then they would lose votes.

I just read on my iPhone that Martin Lee today came out and said that the pan-democrats should engage in negotiations with the central government. Maybe something that would come out of that would be that some of those restrictions might be amended and not the complete withdrawal. That's basically what I've been arguing as well: focus on things that are doable, and maybe we can increase the number. That negotiation hasn't happened, and that doesn't look like how it's going to happen. It's unclear how it's going to happen.

Mr. Alan Ka-lun Lung: Talking about principle, certainly I would support the pan-democrats rejecting the current proposal for governance reasons, for very practical reasons, because if you were restricted, the competent people simply would not get in and Hong Kong would never get out of these governance issues of putting the right people in government so that Hong Kong would work. In my mind, it's as simple as that. We want the right people, a system that can choose the right people to run Hong Kong. Behind this so-called principle, there's a practical, pragmatic consideration too on whether there's room for negotiation.

Subtle things are happening, despite what Professor Young said. Subtle changes have been made on both the government side and the Democratic Party side. They are now saying in very subtle terms—and only people like us will notice, because we read the papers every day—that instead of rejecting the 8.31 decision totally, the Democratic Party is now saying that it needs to be changed.

In today's newspaper, the *Hong Kong Economic Journal*, this is really a summary of what many people have said. Many people are ballooning the ideas that it may not be rejected. It may be passed by four votes. There may be more of a compromise offer by Beijing.

So those are the subtle changes that are happening, but nobody is negotiating yet, as far as I know.

• (1255)

The Chair: Thank you.

Thank you, Mr. Wilks.

To our witnesses, we want to thank you, Ms. Wright, for joining us from Cambridge today; and we want to thank Mr. Lung and Mr. Young from Hong Kong for staying up into the middle of the night so you could participate with us. Thank you.

And to Mr. Young, I am a graduate of Wilfrid Laurier University as well, so it's good to see a fellow graduate here tonight.

Thank you very much.

And in Ottawa, Mr. Tiberghien, thank you very much for your participation today.

The meeting is suspended for 30 seconds, so we can go in camera.

I'm going to suspend for 30 seconds. We'll let the people here by video conference go, and I will come back in camera just to go over a very quick motion.

[Proceedings continue in camera]

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