

March 11, 2021

Dear Editor,
The Guardian

I refer to your article of March 10 titled “Help Hong Kong residents flee before it’s too late, fugitive democracy figure urges”. The allegation that the “Hong Kong government recently unveiled proposed legislation to give the immigration department ‘unfettered powers’ to stop people leaving” is unfounded. I write to set the record straight.

The freedom to travel and the right to enter or leave Hong Kong of Hong Kong residents are guaranteed under Article 31 of the Basic Law and Article 8(2) of the Bill of Rights under the Hong Kong Bill of Rights Ordinance (Cap. 383).

The proposed provision in the Immigration (Amendment) Bill 2020 (the Bill) is intended for fulfilling the international obligation of the Hong Kong Special Administrative Region under the “Convention on International Civil Aviation”, which imposed in 2018 a new mandatory requirement for members of the International Civil Aviation Organization to put in place the Advance Passenger Information (API) system.

According to the API requirements, airlines need to provide passenger and crew member information to immigration authorities of the destination port before flight departure. The proposed amendments to the Immigration Ordinance thus seek to empower the Secretary for Security to make regulations in relation to the provision of passenger information by carriers.

The proposed API system is intended to require the provision of passenger information on flights heading to Hong Kong, rather than departing flights. The right of Hong Kong residents to enter or leave Hong Kong is not affected. The Government will also ensure that the operation of the API system will conform with the Basic Law and the Hong Kong Bill of Rights.

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