

# A LETTER TO THE PRIME MINISTER OF CANADA

JUNE 23, 2020

THE RT. HON. JUSTIN TRUDEAU  
PRIME MINISTER OF CANADA  
80 WELLINGTON STREET  
OTTAWA, ON K1P 5K9

FCPP has provided the links to supplementary information within the published open letter to enhance the context and reader's knowledge about this decision.


Dear Prime Minister:

We write you as Canadians who are deeply concerned about the prolonged and unlawful detention by China of the Canadians Michael Spavor and Michael Kovrig (“the Two Michaels”).

- We are worried about the impact of their detention on their physical, mental and emotional health.
- Quite apart from our concern about the Two Michaels, it seems to us that the Meng Wanzhou extradition proceeding is making it impossible for your Government to define and pursue an effective foreign policy towards China.
- We take note of the legal opinion expressed by Brian Greenspan (“the Greenspan Opinion”), counsel of national reputation, that the Minister of Justice (“the Minister”) has the legal authority to act now in the extradition process, and that it would be entirely in accordance with the Rule of Law for the Minister to do so.
- We contend that the time is past due for the Minister to do just that: to end the Meng extradition proceeding and to bring the Two Michaels home.

## The Two Michaels in Detention

It has now been more than 550 days since the Two Michaels were locked into a Chinese prison. Their detention was completely unlawful and unjustified. Reliable accounts describe their conditions of confinement as tantamount to torture. The Two Michaels were taken in direct retaliation for the arrest in Canada of Meng Wanzhou. We believe that the Two Michaels will remain in their Chinese prison cells until Meng is free to return to China.




That means that unless the Minister acts now, the Two Michaels face indefinite confinement:

- Given the pace at which the judicial phase of the extradition proceeding is advancing before the Supreme Court of British Columbia, and having regard to the various rights of appeal and judicial review at each stage, it may well be 2024 before the question of extradition is finally determined.
- If Meng is extradited to the United States, it can reasonably be assumed that she will be before their courts for an extended period.
- Meanwhile, the Chinese have now laid criminal charges against the Two Michaels. That will add immeasurably to the stress that they are under. They will be tried in a court that has a 99% conviction rate, leaving no doubt about the jeopardy they face if they remain there.
- The Government's rationale for allowing the extradition to proceed has been linked from the outset to its professed respect for the independence of our courts, and its unwavering commitment to the Rule of Law. But it now appears from the Greenspan Opinion that the Minister has full responsibility for the control of extradition proceedings and every right to end the proceeding, including during the judicial phase. The Greenspan Opinion also makes it clear that his doing so would not endanger judicial independence and would be entirely consistent with the Rule of law.
- Recent news reports indicate that there is a resurgence of the COVID-19 virus in Beijing. We cannot know the extent to which this will put the Two Michaels at increased risk. We are prepared to assume that their ability to resist and survive infection has been compromised by almost two years of difficult confinement. And we do know that detention centers/prisons worldwide have seen troubling rates of infection. It is not an exaggeration to say that their lives are at grave risk. In these circumstances, it is incumbent on the Government to take action that will likely lead to their release while it has every legal right to do so.

### Canada's Policy Towards China

Quite apart from our grave concern for the health and indeed the survival of the Two Michaels, we believe that the Meng extradition and the issues it has spawned are undermining the Government's efforts to defend and promote our country's national interests, including *vis à vis* China. In short, Canada's foreign policy is also being held hostage.

Ending the Meng extradition process now and securing the release of the Two Michaels would untie Canada's hands at a time when the Canadian government



must be fully free to re-define its strategic approach to China, and take the tough steps needed to protect and advance our own interests.

We offer the following observations:

- For example, Canada must declare its position on Huawei's involvement in the deployment of 5G technology in Canada. That decision has been postponed time and again. Our allies and friends have made their policy on Huawei clear. As a further example, when Canada speaks out on Chinese policy towards Hong Kong, or its human rights abuses domestically, we do so in measured tones, so as not to make the situation worse for the Canadian prisoners. Removing the pressures of the extradition proceeding and the related imprisonment of the Two Michaels will clear the way for Canada to freely decide and declare its position on all aspects of the Canada-China relationship.
- There is no question that the US extradition request has put Canada in a difficult position. As Prime Minister, you face a difficult decision. Complying with the US request has greatly antagonized China. Putting an end to the extradition proceeding may irritate the US. In normal circumstances, the safer choice would be to stay close to our ally, our friend, and our principal trading partner. But these are not normal times, and this is not a normal case. Although the U.S. government may voice its strong objections to the Minister's decision to end the extradition, it would not be the first time that Canada has parted ways with the US, including on much more momentous issues, such as refusing to join in their invasion of Iraq. Our strong bilateral relationship survived all of those controversies, each of them expressions by Canada of its sovereignty and national interest.
- We believe that Canadians will strongly support a decision to end the extradition proceeding. Canadians are well aware of President Trump's earlier suggestion that he might drop the charges against Madam Meng if he secured a favorable trade deal with China. Those remarks underscore the highly cynical way President Trump has approached this case.
- Of course, it does not sit well with anyone to yield to bullying or blackmail. The means chosen by China in this instance to advance its interests are indeed repugnant. However, resisting China's pressure is no guarantee that it will never be applied again in the future. Indeed, if Canada resists the pressure arising from the detention of the Two Michaels, China might well decide that next time it will need to escalate by detaining more than two Canadians.

We conclude, Prime Minister, by stressing that a fundamental foreign policy obligation of the Canadian Government is to protect our citizens abroad. Two of them are at grave risk, which heightens by the day. It is within the Minister's lawful power to put to an end the very proceeding that led to their confinement.

Apart from the safety and liberty of our citizens, that same proceeding is hobbling Canada's foreign policy at a time when it crucial to define it with clarity and boldness. And although the American President will no doubt object if we act in our interest instead of his, fear of his retribution cannot be a sound reason for continuing the present, unwise course. And Canadians will support your Government if it acts.

The Minister of Justice, acting in that capacity, should immediately accept his responsibility under the Extradition Act and exercise the authority he has under that statute to end the Meng extradition proceeding.

Yours respectfully,

Louise Arbour  
Former President and CEO of International Crisis Group

Lloyd Axworthy  
Former Minister of Foreign Affairs

Ed Broadbent  
Former Leader of the New Democratic Party

Derek Burney  
Former Canadian Ambassador to the United States, former  
Chief of Staff to Prime Minister Brian Mulroney

Lawrence Cannon  
Former Minister of Foreign Affairs and former Canadian  
Ambassador to France

Wendy Dobson  
Professor Emerita, University of Toronto  
Former Associate Deputy Minister of Finance

Leonard J. Edwards  
Former Deputy Minister of Foreign Affairs and International  
Trade and former Canadian Ambassador to Japan and  
Korea

Yves Fortier  
Former Permanent Representative of Canada to the United  
Nations and Canadian Representative on the Security  
Council

Robert Fowler  
Former Foreign Policy Advisor to Prime Ministers Pierre  
Trudeau, John Turner, and Brian Mulroney

Louise Frechette  
Former Deputy Secretary General of the United Nations

Fen Osler Hampson  
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Paul Heinbecker  
Former Permanent Representative of Canada to the United  
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Michael Kergin  
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Claude Laverdure  
Former Foreign Policy Advisor to Prime Minister Jean  
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Don Newman  
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Maureen O'Neil  
Former President, International Development Research  
Centre

André Ouellet  
Former Minister of Foreign Affairs and International  
Development

Allan Rock  
Former Minister of Justice and Attorney General of Canada

Hugh Segal  
Former Chair of the Standing Senate Committee on Foreign  
Affairs and International Trade