



# HONG KONG: IN THE NAME OF NATIONAL SECURITY

HUMAN RIGHTS VIOLATIONS RELATED TO THE IMPLEMENTATION OF THE  
HONG KONG NATIONAL SECURITY LAW

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# INTRODUCTION

The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (NSL) was unanimously passed by China's National People's Congress Standing Committee (NPCSC) and enacted in Hong Kong on 30 June 2020 without any formal, meaningful public or other local consultation.

The impact of the NSL has been immediate and sweeping. Since the implementation of the NSL, Amnesty International has documented a wide range of human rights violations in Hong Kong. The law's expansive definition of "national security", which follows that of the Chinese central authorities, lacks clarity and legal predictability and has been used arbitrarily as a pretext to restrict the rights to freedom of expression, peaceful assembly and association, as well as to repress dissent and political opposition.

The Hong Kong government has apparently been given free rein to use the law to target dissent. By accusing political parties, academics and other organizations and individuals actually or perceived to be critical of the present government and political system in Hong Kong or mainland China of "threatening national security", the authorities have sought to justify censorship, harassment, arrests and prosecutions that violate human rights.

There is clear evidence indicating that the so-called human rights safeguards set out in the NSL are effectively useless. The law abrogates human rights protections existing in both local case law and international statute. The law's lack of exemption for any legitimate expression, peaceful protest or work defending human rights allows the law to be used to limit rights and freedoms in ways that exceed what is permitted under international human rights law and standards.

Between 1 July 2020 and 23 June 2021, police arrested or ordered the arrest of at least 114 people under the NSL. At least three individuals were under 18 at the time of arrest. As of 23 June 2021, 64 people have been formally charged, and 48 people are presently in pretrial detention in relation to these charges.

This briefing summarizes the kinds of acts that the authorities in Hong Kong claim to fall under the category of "endangering national security" since the NSL took effect and documents human rights violations (including the right to free trial) that have been perpetrated under the NSL. It also sets out some of the main relevant international human rights laws and standards and provides recommendations to the Chinese central and Hong Kong governments and the United Nations Human Rights Council to safeguard national security in accordance with international human rights standards.

The analyses and documentation in this briefing are based on desktop research, court judgments, court hearing notes and interviews. Amnesty International wrote to the Hong Kong Police Force (HKPF) and the Hong Kong Department of Justice (DoJ) to inquire about statistics in relation to the arrests and prosecutions made under the NSL. The HKPF did not respond to the inquiry. The DoJ replied that it does not maintain relevant records. To illustrate the impact of the NSL on dissidents, this briefing highlights the cases of four individuals – youth activist Owen CHOW Ka-shing, journalist-turned-politician Gwyneth HO Kwai-nam, long-serving activist LEUNG Kwok-hung "Long Hair" and LGBTI activist Jimmy SHAM Tsz-kit.

# 1. BACKGROUND

On 1 July 2015, mainland China enacted its own National Security Law. The law's definition of "national security" gives the concept effectively limitless scope, including "sovereignty, unity, territorial integrity, the welfare of the people, sustainable economic and social development, and other major interests of the state" in the list of things needing protection.<sup>1</sup> Since then, China's laws have been further expanded to include many more statutes defined in virtually all-encompassing ways that restrict the exercise of people's rights without effective safeguards.<sup>2</sup> These laws contravene international human rights law and standards and present severe threats to the rights to freedom of peaceful assembly, association and expression, as well as other human rights.<sup>3</sup>

Even prior to the enactment of the National Security Law for Hong Kong in 2020, the Chinese central government's overly broad definition of national security was already gradually being introduced into the city to target activism and peaceful expression.<sup>4</sup> Starting with the Umbrella Movement in 2014, the Hong Kong government began portraying protest and political activism critical of the government as threats to national security being orchestrated from abroad. Benny Tai, a legal scholar formerly at the University of Hong Kong, has been repeatedly targeted by the Chinese authorities since his participation in the Umbrella Movement. Chinese state media and pro-Beijing media in Hong Kong have branded Tai as a threat to national security. These media outlets claim that Tai colluded with "foreign forces" because he predicted foreign countries would impose sanctions on the Chinese Communist Party in a public commentary detailing his assessment of political development in Hong Kong.<sup>5</sup>

Beginning in 2016, the government began disqualifying individuals from running for elections or taking office on the grounds that their stance regarding self-determination for Hong Kong contravenes the Basic Law, the city's mini constitution guaranteeing the rights and freedoms of people in Hong Kong, including freedom of expression.<sup>6</sup> In September 2018, the government banned the Hong Kong National Party, a local organization advocating Hong Kong independence, "in the interests of national security, public safety, public order and the protection of the rights and freedoms of others".<sup>7</sup> It did so using the city's Societies Ordinance, which has been criticized by the UN and human rights groups for its potential impact on the rights to freedom of expression and association.

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<sup>1</sup> China, National Security Law of the People's Republic of China, 2015, [govt.chinadaily.com.cn/s/201812/11/WS5c0f1b56498eefb3fe46e8c9/national-security-law-of-the-peoples-republic-of-china-2015-effective.html](http://govt.chinadaily.com.cn/s/201812/11/WS5c0f1b56498eefb3fe46e8c9/national-security-law-of-the-peoples-republic-of-china-2015-effective.html), Article 2.

<sup>2</sup> See, for example, Amnesty International, China: Submission to the NPC Standing Committee's Legislative Affairs Commission on the Draft "Cyber Security Law" (Index: ASA 17/2206/2015), 5 August 2015, ; Amnesty International, "China: Scrap Foreign NGO law aimed at choking civil society", 28 April 2016, [www.amnesty.org/en/latest/news/2016/04/chinascrap-foreign-ngo-law-aimed-at-choking-civil-society](http://www.amnesty.org/en/latest/news/2016/04/chinascrap-foreign-ngo-law-aimed-at-choking-civil-society).

<sup>3</sup> Amnesty International, "China: Scrap draconian new national security law", 1 July 2015,

<sup>4</sup> Amnesty International, Beijing's "Red Line" in Hong Kong: Restrictions on Rights to Peaceful Assembly and Freedom of Expression and Association (Index: ASA 17/0944/2019), 24 September 2019,

<sup>5</sup> People's Daily, "People's Daily Commentary: Defending 'One Country Two Systems', the important measure that goes steady and far" (人民锐评：维护“一国两制”行稳致远的重要举措), 21 May 2020, [news.sina.com.cn/c/2020-05-21/doc-iircuyvi4350991.d.shtml](http://news.sina.com.cn/c/2020-05-21/doc-iircuyvi4350991.d.shtml)

<sup>6</sup> The High Court of the Hong Kong Special Administrative Region (High Court), *Chief Executive of the HKSAR and others v. President of the Legislative Council and others*, HCAL223/2016, 14 July 2017,

[legalref.judiciary.hk/doc/judg/word/vetted/other/en/2016/HCAL000223\\_2016.doc](http://legalref.judiciary.hk/doc/judg/word/vetted/other/en/2016/HCAL000223_2016.doc); High Court, *Chow Ting v. Teng Yu-yan Anne (the returning officer for the Hong Kong Island Constituency) and others*, HCAL804/2018, 2 September 2019, [legalref.judiciary.hk/doc/judg/word/vetted/other/en/2018/HCAL000804\\_2018.doc](http://legalref.judiciary.hk/doc/judg/word/vetted/other/en/2018/HCAL000804_2018.doc)

<sup>7</sup> Government of the Hong Kong SAR, "Gov't orders group banned", 24 September 2018, [www.news.gov.hk/eng/2018/09/20180924/20180924\\_122352\\_622.html](http://www.news.gov.hk/eng/2018/09/20180924/20180924_122352_622.html)

Things took a new turn in June 2019, when the government's proposed "Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation Bill" triggered a series of protests (the so-called Anti-Extradition Law Amendment Bill, or anti- ELAB, movement). As the protests went on over the following six months, the police and some protesters escalated violence. Amnesty documented an alarming pattern of the Hong Kong Police Force employing reckless and indiscriminate tactics, including evidence of torture and other ill-treatment in detention.<sup>8</sup> Instead of supporting calls from different sectors in Hong Kong for the government to launch an independent and impartial investigation into police excessive use of force and systematic violation of human rights during the protests, the central government saw the protest movement as evidence of the need to pass a National Security Law in Hong Kong.<sup>9</sup>

On May 2020, China's National People's Congress (NPC) approved a decision authorizing its Standing Committee to pass the NSL. On 30 June 2020, the NPCSC issued legislation directly adding the NSL to Annex III of the Hong Kong Basic Law and announcing that the new law would be directly promulgated by the Hong Kong government, instead of being made into local legislation (which would also have been an option). Enactment of the law in this way meant that the Hong Kong legislature was effectively bypassed, and the sequence of events left no other channels for any other formal and meaningful public consultation or scrutiny, such as having a draft reviewed by Hong Kong's Law Reform Commission.

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<sup>8</sup> Amnesty International, "Hong Kong: Arbitrary arrests, brutal beatings and other torture in police detention revealed", 19 September 2019, [www.amnesty.org/en/latest/news/2019/09/hong-kong-arbitrary-arrests-brutal-beatings-and-torture-in-police-detention-revealed](http://www.amnesty.org/en/latest/news/2019/09/hong-kong-arbitrary-arrests-brutal-beatings-and-torture-in-police-detention-revealed)

<sup>9</sup> South China Morning Post, "Need for national security law in Hong Kong becoming urgent, Beijing official says", 10 Nov 2019, [www.scmp.com/news/china/politics/article/3037048/need-national-security-law-hong-kong-becoming-urgent-beijing](http://www.scmp.com/news/china/politics/article/3037048/need-national-security-law-hong-kong-becoming-urgent-beijing)

# 2. ACTS AUTHORITIES CLAIM TO BE ‘ENDANGERING NATIONAL SECURITY’

Since enactment of the NSL, the Hong Kong authorities have significantly and systematically increased their use of “national security” as a pretext to crack down on freedom of expression and other human rights in different sectors. The National Security Law sweepingly targets alleged acts of secession, subversion of state power, terrorist activities and collusion with foreign or external forces to endanger national security. This section highlights some examples of peaceful exercise of human rights that authorities have claimed to be “endangering national security”.

The NSL has had an instant chilling effect across Hong Kong from day one. The arbitrary application of or threat of applying the NSL, together with the law’s imprecise definitions, effectively prevent anyone from fully knowing how and when they might transgress it. This has led people to speculate about the many ways that their behaviour might be considered to be in violation and consequently to regulate their own behaviour in anticipation of a very broad scope of application. The whole NSL and its application therefore from its outset raises serious concerns in terms of legal certainty, as required by Article 15 of the International Covenant on Civil and Political Rights (ICCPR), which is applicable law in Hong Kong and a cornerstone of the overall rule of law.

## EXERCISING THE RIGHT OF PEACEFUL ASSEMBLY

From the outset, the Hong Kong authorities have used the NSL to restrict people’s right to peaceful protest. On 1 July, the first full day of the law being in force, police arrested more than 300 protesters, including 10 on suspicion of violating the new law. Police have used video clips of a protester chanting slogans as evidence when pressing national security charges.<sup>10</sup> Police subsequently continued to arrest people under the NSL in entirely peaceful assemblies for allegedly endangering national security by chanting or displaying slogans, or even just possessing flags, stickers or other materials with political messages critical of the government. There is no evidence that these arrests were for anything other than legitimate expression in entirely peaceful assemblies that is protected by international human rights law.

After the NSL came into effect, police started to warn peaceful protesters that chanting slogans or displaying banners in public assemblies could be treated as a criminal offence under the new law. The Hong Kong Police Force generally uses a colour-coded banner system to communicate warning messages to a gathering of

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<sup>10</sup> The Court of First Instance (CFI), *HKSAR v. Ma Chun Man*, [2021] HKCFI 3132, miscellaneous proceedings, 29 December 2020, [legalref.judiciary.hk/doc/judg/word/vetted/other/en/2020/HCCP000711\\_2020.docx](https://www.legalref.judiciary.hk/doc/judg/word/vetted/other/en/2020/HCCP000711_2020.docx)

protesters, such as warning them to stop crossing a cordoned area, declaring an assembly unlawful or warning of an imminent use of firearms. Since enactment of the NSL, police have begun using a new purple warning flag with the message: “You are displaying flags or banners/chanting slogans/or conducting yourselves with an intent such as secession or subversion, which may constitute offences under the ‘HKSAR National Security Law’. You may be arrested and prosecuted.”<sup>11</sup>

Prosecutors charged one protester, Adam Ma Chun-man, with incitement of subversion for allegedly chanting slogans and displaying placards “persistently” in public space between 15 August and 22 November 2020.<sup>12</sup> Ma has also been accused of calling for Hong Kong independence in multiple interviews on online media platforms. Ma has been denied bail and remanded into custody since November 2020 solely for exercising the right to peaceful expression.

Police also considered peaceful protests on campus as acts that endanger national security. On 17 November 2020, approximately 100 people, including students and a district councillor, held a peaceful rally on the Chinese University of Hong Kong campus, chanting political slogans and holding banners. Shortly after, the police were informed by the university of the rally and arrested eight people, including three students under the National Security Law.<sup>13</sup>

The UN Human Rights Committee General Comment 37 and other international standards make clear that the right to freedom of peaceful assembly is protected even where the assembly in question is pursuing contentious ideas or goals.<sup>14</sup> Calling for changes in government, government policy or even “self-determination” or independence, or “insulting” state officials or organs does not automatically justify prohibiting peaceful assemblies on national security or other grounds, especially if protesters call for an end to the suppression of human rights.<sup>15</sup>



## JIMMY SHAM TSZ-KIT



Jimmy Sham is a long-term activist for political causes and the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people. He is a familiar face to a lot of people in Hong Kong. For several years, he was the emcee of Hong Kong’s June Fourth vigil commemorating the Tiananmen crackdown in 1989. As one of the core organizers of Hong Kong Pride, he was often seen chanting slogans on the stage at those events. During the anti-ELAB protests in 2019, Sham was the convener of the Civil Human Rights Front (CHRF), which organized some of the largest peaceful protests Hong Kong had seen since 2003, including three

mass peaceful protests on 9 June, 16 June and 18 August, each attracting an estimated 1–2 million participants.

However, these civil society organizations and events in which he was once involved have been facing unprecedented pressure since the enactment of the NSL. As part of an investigation into whether CHRF had breached the Societies Ordinance, in April 2021 police asked the coalition to explain why it was not registered under the Ordinance, provide details about its funding and explain why it had co-signed a petition to the United Nations High Commissioner for Human Rights in December 2020 about excessive police use of force in Hong Kong.<sup>16</sup> At least eight groups have quit the coalition since news of the investigation broke. The June Fourth candlelight vigil was banned for a second year in a row in 2021 on the stated grounds of Covid-19 prevention. Yet, 3,000 police were on standby that evening and one activist was arrested for

<sup>11</sup> New York Times, “Hong Kong’s new weapon against protesters: A purple warning flag”, 1 July 2020, [www.nytimes.com/2020/07/01/world/asia/hong-kong-purple-flag.html](https://www.nytimes.com/2020/07/01/world/asia/hong-kong-purple-flag.html)

<sup>12</sup> CFI, *HKSAR v. Ma Chun Man*, miscellaneous proceedings (previously cited).

<sup>13</sup> Amnesty International, “Hong Kong: Crackdown over CUHK student protest is blatant attack on human rights”, 7 December 2020, [www.amnesty.org/en/latest/news/2020/12/hong-kong-arrest-of-students-over-peaceful-cuhk-protest-is-blatant-attack-on-human-rights](https://www.amnesty.org/en/latest/news/2020/12/hong-kong-arrest-of-students-over-peaceful-cuhk-protest-is-blatant-attack-on-human-rights)

<sup>14</sup> UN Human Rights Committee (HRC), General comment no. 37 (2020) on the right of peaceful assembly (Article 21), 17 September 2020, [digitallibrary.un.org/record/3884725/files/CCPR\\_C\\_GC\\_37-EN.pdf](https://digitallibrary.un.org/record/3884725/files/CCPR_C_GC_37-EN.pdf), para. 7.

<sup>15</sup> HRC, General Comment 37 (previously cited), para. 49.

<sup>16</sup> South China Morning Post, “Hong Kong mass protest organiser Civil Human Rights Front facing police probe over its operations”, 26 April 2021, [www.scmp.com/news/hong-kong/society/article/3131181/hong-kong-mass-protest-organiser-civil-human-rights-front](https://www.scmp.com/news/hong-kong/society/article/3131181/hong-kong-mass-protest-organiser-civil-human-rights-front)

“promoting unauthorized assembly” after she asked people on social media to commemorate Tiananmen crackdown in a private manner.<sup>17</sup>

Since the 2019 protests, Jimmy has been routinely harassed, monitored and even severely wounded in an attack.<sup>18</sup> But that did not stop him from continuing his work as an activist and politician. In November 2019, he and other members of the opposition camp won a landslide victory in the district council elections. After his election as a district councillor, Sham tried to make LGBTI issues more visible in his district.

However, Jimmy’s work in the district was brought to an abrupt halt when police arrested him on 6 January 2021, along with 52 pro-democracy lawmakers and activists, under the NSL charge of “conspiracy to subversion”. The charge was related to the organization and participation in self-organized “primaries” in July 2020 to select candidates for that year’s Legislative Council election (which was eventually postponed). A total of 47 of the arrested individuals were subsequently prosecuted and only eight were granted bail under extremely stringent conditions. Twelve district councillors who also ran in the primaries had to resign, shut down their social media platforms and even cut off all political affiliations in a bid to meet the extremely high bail threshold.

On 13 May 2021, the High Court once again rejected Jimmy’s bail application, stating that it was very likely that he would continue to “endanger national security” because of his various comments critical of the Hong Kong government and “especially because he is a young and determined person”.<sup>19</sup>

## EXERCISING THE RIGHT TO FREEDOM OF EXPRESSION

Article 9 of the NSL authorizes the Hong Kong government to “take necessary measures to strengthen public communication, guidance, supervision and regulation over matters concerning national security, including those relating to schools, universities, social organisations, the media, and the internet”. This potentially opens the door for a wide range of both formal and informal government interventions into areas that rely on freedom of expression, among other rights, to remain vital.

Citing national security concerns, police have taken unprecedented measures against Apple Daily, the only pro-democracy print paper in Hong Kong, resulting in its closure on 24 June 2021.<sup>20</sup> In less than a year, founder Jimmy Lai, five senior executives and an editorial writer for the newspaper were arrested under the NSL. Police accused the newspaper of “colluding with foreign forces” by publishing articles related to foreign countries imposing sanctions on Chinese and Hong Kong government officials.<sup>21</sup> Authorities subsequently froze HK\$18 million (US\$2.32 million) of assets owned by companies linked to Apple Daily, forcing the media company to cease operation due to insufficient funds.

Since June 2020, the Hong Kong government has arrested and charged individuals under the NSL solely because of their legitimate expression. Two days after the law was passed, the Hong Kong government declared that “Liberate Hong Kong, the revolution of our times” – a common political slogan during the 2019 protests – “connotes ‘Hong Kong independence’”, or separating Hong Kong from China, and effectively prohibited its use.<sup>22</sup>

The police, other government authorities, pro-Beijing politicians and mainland voices have also repeatedly opined that some act or expression “may violate” the NSL, without providing any explicit or specific basis in the text of the law itself. This constant apparent need to interpret and explain what is allegedly prohibited under the NSL only demonstrates the law’s unpredictability and arbitrary application. This, in turn, violates the principle of legality enshrined in Article 15 of the ICCPR, which is a cornerstone of the overall rule of law.

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<sup>17</sup> BBC, “Tiananmen: Hong Kong vigil organiser arrested on 32nd anniversary”, 4 June 2021, [bbc.com/news/world-asia-57353803](https://www.bbc.com/news/world-asia-57353803); Chow Hang-tung, Facebook post, 29 May 2021, [facebook.com/505789300/posts/10159843428114301](https://www.facebook.com/505789300/posts/10159843428114301): “Lighting a candle is not a crime, standing our ground” (Translation from Chinese by Amnesty International).

<sup>18</sup> Amnesty International, “Hong Kong: Protest leader left bleeding on street after brutal hammer attack”, 16 October 2019, [www.amnesty.org/en/latest/news/2019/10/hong-kong-protest-leader-left-bleeding-on-street-after-brutal-hammer-attack](https://www.amnesty.org/en/latest/news/2019/10/hong-kong-protest-leader-left-bleeding-on-street-after-brutal-hammer-attack)

<sup>19</sup> HK01, “Jimmy Sham denied bail, judge said hard to ensure Sham won’t endanger national security as he is young, persistent and determined” (岑子杰保釋被拒 官指岑年輕堅定有決心 難保不再違反國安事宜), 13 May 2020, [bit.ly/3dbXPFX](https://bit.ly/3dbXPFX)

<sup>20</sup> Amnesty International, “Hong Kong: Apple Daily closure is dark day for press freedom”, 23 June 2021, [www.amnesty.org/en/latest/news/2021/06/hong-kong-apple-daily-closure-is-press-freedom-darkest-day/](https://www.amnesty.org/en/latest/news/2021/06/hong-kong-apple-daily-closure-is-press-freedom-darkest-day/)

<sup>21</sup> Amnesty International, “Hong Kong: Apple Daily raid, arrests a brazen attack on press freedom”, 17 June 2021, [www.amnesty.org/en/latest/news/2021/06/hong-kong-apple-daily-raid-arrests-a-brazen-attack-on-press-freedom/](https://www.amnesty.org/en/latest/news/2021/06/hong-kong-apple-daily-raid-arrests-a-brazen-attack-on-press-freedom/)

<sup>22</sup> Government of the Hong Kong SAR, “Government statement”, 2 July 2020, [www.info.gov.hk/gia/general/202007/02/P2020070200869.htm](https://www.info.gov.hk/gia/general/202007/02/P2020070200869.htm)

Police have often put forward social media posts and online commentary as evidence that a person has “endangered” national security. In July 2020, police arrested four student activists, aged 16 to 21 at the time of arrest, for “inciting secession” over social media posts that allegedly promoted the independence of Hong Kong.<sup>23</sup> Jimmy Lai, founder of Hong Kong’s pro-democracy media outlet Apple Daily, was charged with colluding with foreign elements to endanger national security. The prosecution cited Jimmy Lai’s social media posts and online commentary as evidence against him, such as Lai’s critical tweets about the NSL and commentary published in Apple Daily.<sup>24</sup> When reviewing Jimmy Lai’s bail application, the High Court judge ruled to release Lai on bail as Lai’s statements “appear to be comments and criticism rather than requests [for foreign intervention]”, even though these statements could be “disagreeable or even offensive” to some.<sup>25</sup> Political activists have also been targeted and arrested for their peaceful political expression. In July 2020, the authorities barred 12 pro-democracy candidates from running in the Hong Kong Legislative Council election originally planned for September 2020.<sup>26</sup> The government cited advocacy of Hong Kong independence, soliciting actions relating to human rights violations by foreign governments and objecting in principle to the NSL as some of the reasons that lawmakers “could not genuinely uphold” their constitutional duty.<sup>27</sup>

In July 2020, the opposition camp organized “primaries” to narrow the final list of pro-democracy candidates to run in the legislative polls, with the overall aim to secure a majority for the political opposition in that year’s Legislative Council election, which was ultimately postponed. Some who were on the final list intended to gain a majority of seats in the Legislative Council in order to block the government budget, which under the Basic Law could result in the stepping down of the Chief Executive, the head of Hong Kong’s government. In February 2021, in the biggest mass prosecution since the law came into effect, police charged 47 activists for “conspiracy to subversion” in relation to the self-organized poll.<sup>28</sup> By targeting the political opposition, the authorities appear to be discriminating against a particular opinion on political grounds, which would be a violation of the rights to freedom of expression and association.



## OWEN CHOW KA-SHING



Owen Chow was in his final year of an undergraduate programme in nursing when he was elected as a district councillor in 2019. In July 2020, Owen joined the opposition camp’s self-organized primaries.

Owen was already running his primary election campaign when the NPCSC passed the NSL on 30 June 2020. As the law bypassed local legislative scrutiny and was only published after its enactment, Owen only learnt about its sweepingly draconian nature on the day it was passed. In an interview, he said his mind “went blank” when he heard that the highest penalty for endangering national security under the NSL is life imprisonment. He halted his election campaign for a few days and amended his political platforms, slogans and promotional materials. He worried that even expressing his political views could be criminalized under the NSL.

<sup>23</sup> Amnesty International, “Hong Kong: National security arrests over social media posts violate freedom of expression”, 30 July 2020, [www.amnesty.org/en/latest/news/2020/07/hong-kong-national-security-arrests-over-social-media-posts-violate-freedom-of-expression](http://www.amnesty.org/en/latest/news/2020/07/hong-kong-national-security-arrests-over-social-media-posts-violate-freedom-of-expression)

<sup>24</sup> CFI, *HKSAR v. Lai Chee Ying*, [2020] HKCFI 3161, miscellaneous proceedings, 29 December 2020, [legalref.judiciary.hk/doc/judg/word/vetted/other/en/2020/HCCP000727\\_2020.docx](http://legalref.judiciary.hk/doc/judg/word/vetted/other/en/2020/HCCP000727_2020.docx); Hong Kong Free Press, “Security law: Hong Kong justice dept. ‘appalled’ by foreign officials demanding release of media tycoon Jimmy Lai”, 14 December 2020, [hongkongfp.com/2020/12/14/security-law-hong-kong-justice-dept-appalled-by-foreign-officials-demanding-release-of-media-tycoon-jimmy-lai](http://hongkongfp.com/2020/12/14/security-law-hong-kong-justice-dept-appalled-by-foreign-officials-demanding-release-of-media-tycoon-jimmy-lai)

<sup>25</sup> RTHK, “Jimmy Lai statements look like mere comments: judge”, 29 December 2020, [news.rthk.hk/rthk/en/component/k2/1567687-20201229.htm](http://news.rthk.hk/rthk/en/component/k2/1567687-20201229.htm)

<sup>26</sup> The government postponed the Legislative Council election to “protect public safety and public health” and “ensure elections are conducted openly and fairly”. See Government of the Hong Kong SAR, “LegCo General Election postponed for a year”, 31 July 2020, [www.info.gov.hk/gia/general/202007/31/P2020073100898.htm](http://www.info.gov.hk/gia/general/202007/31/P2020073100898.htm)

<sup>27</sup> Government of the Hong Kong SAR, “HKSAR Government supports Returning Officers’ decisions to invalidate certain nominations for Legislative Council General Election”, 30 July 2020, [www.info.gov.hk/gia/general/202007/30/P2020073000481.htm](http://www.info.gov.hk/gia/general/202007/30/P2020073000481.htm)

<sup>28</sup> Amnesty International, “Hong Kong: Prosecution of opposition figures an unprecedented attack on human rights”, 4 March 2021, [www.amnesty.org/en/latest/news/2021/03/hk-opposition-prosecutions-an-unprecedented-attack-on-human-rights](http://www.amnesty.org/en/latest/news/2021/03/hk-opposition-prosecutions-an-unprecedented-attack-on-human-rights)

But the authorities ultimately saw even just the mere fact of participating in the primaries as “subversive”. Owen was arrested on 6 January 2021 for “inciting subversion”. He was remanded into custody for nearly four months before being granted bail on 22 June 2021.

Owen Chow is not the only student activist who has found himself a target of the NSL. In the law’s first year, at least seven student activists, including children, were arrested for “inciting subversion” or “colluding with foreign forces”.

Since 2019, Hong Kong’s Education Bureau has gradually intensified measures restricting freedom of expression on campus, including banning peaceful expressions of political views and activities and revoking a teacher’s registration for “spreading pro-independence messages”. Students were arrested for “endangering national security” after participating in entirely peaceful protests on university campus. These far-reaching measures have created a sense of fear among secondary and tertiary teaching staff and students.



### LEUNG KWOK-HUNG (“LONG HAIR”)



The NSL is not only targeting young people. The mass prosecution of 47 political figures is a large-scale crackdown on the entire opposition camp in Hong Kong, including long-serving politicians and activists.

One of the prosecuted political activists is Leung Kwok-hung, widely known in Hong Kong as “Long Hair”. Leung is a veteran political activist and a pioneer of Hong Kong’s civil disobedience activism. For the past 40 years, Long Hair has been advocating for labour rights and political causes through action-based activism.

In his election campaign materials for the 2020 “primaries”, Long Hair reiterated his support for the five core demands of the 2019 anti-ELAB protests – namely, withdrawal of the extradition bill (the only demand eventually met), retracting the characterization of the

2019 protests as “riots”, launching an independent and impartial investigation into excessive use of force by the police during the protests, realizing universal suffrage, and dropping all charges against protesters. The prosecution sees Long Hair’s inclusion of the five demands in his campaign materials as evidence that he is continuing to “endanger national security” and has therefore argued that he should be not granted bail.

The court refused to grant Long Hair bail because of his critical attitude towards the government and the NSL. The court stated that Long Hair’s long-standing “hostile attitude towards the Hong Kong government and the National Security Law” meant he must continue to be remanded into custody in order to ensure that he not further endanger national security.

## EXERCISING THE RIGHT TO FREEDOM OF ASSOCIATION

Within a week after enactment of the NSL, at least seven politically active groups disbanded, including pro-independence student groups and groups that in the past have called for international sanctions against Hong Kong and central Chinese government officials. Nevertheless, student activists continued to be targeted and arrested. Four members of Studentlocalism, a pro-independence student group that has now disbanded, were arrested for allegedly inciting secession.<sup>29</sup>

After 15 opposition lawmakers resigned in response to the mass disqualification of Legislative Council election candidates from the pro-democracy camp on 30 July 2020, a group of district councillors started to prepare

<sup>29</sup> RTHK, “Two former Studentlocalism members out on bail”, 28 October 2020, [news.rthk.hk/rthk/en/component/k2/1557016-20201028.htm](https://news.rthk.hk/rthk/en/component/k2/1557016-20201028.htm)

for the launch of the Hong Kong Citizens' Deliberative Platform. The Platform aimed to be an alternative forum for pro-democracy politicians to deliberate public matters and engage with public discussion.<sup>30</sup> However, Hong Kong's Secretary of Home Affairs Caspar Tsui Ying-wai said in an interview that forming the Platform was a violation of the NSL and that it "openly challenged the bottom line of the central government".<sup>31</sup> Tsui's remarks reportedly prompted several members to withdraw from the Platform's preparatory committee. On 31 December, the preparatory committee announced that it would stop all plans to launch the Platform, which it said could no longer serve its purpose of including members from different pro-democratic parties to participate in public political deliberation.<sup>32</sup>

The mere fact that an individual or civil society organization advocates autonomy, pushes for sanctions by other countries or even suggests secession of part of a country's territory is not a sufficient basis to automatically justify arrest or force the association's dissolution on national security grounds. In a society based on the rule of law, political ideas that challenge the existing order and whose realization is advocated by peaceful means must be afforded a proper opportunity of expression (through, among others, participation in the political process), regardless of how shocking the statements may appear to the authorities or even a large part of the population. Rallies, speeches, press conferences, letters or similar practical actions do not by themselves provide evidence of any intention to use violence or pose an actual threat to a state's national security.<sup>33</sup>

Private citizens, including leading representatives of civil society organizations, have the right to express dissenting opinions from those of the state authorities and to organize peaceful assemblies and other events to facilitate the public's engagement with political questions, including such things holding public votes and discussing topics related to regional independence, provided they do not use violence or incite violence or discrimination. Non-violent direct action, including acts of civil disobedience, are protected by international human rights law. To consider such acts crimes as serious as national security violations carries the risk that individuals may stop participating in them out of fear of long prison sentences or refrain from expressing themselves or assembling and associating with others generally, in effect chilling the civic space.

## ENGAGING IN INTERNATIONAL POLITICAL ADVOCACY

Since enactment of the NSL, the authorities have arrested or ordered the arrest of 12 individuals for "colluding" or "conspiracy to collude" with "foreign forces" because they were in contact with foreign diplomats, called for sanctions from other countries, called for other countries to provide asylum for those fleeing from persecution or took part in international political advocacy work.

Prosecutors accused Jimmy Lai of colluding with foreign forces, citing his interviews with international media outlets that predated the enactment of the law, his meetings with US politicians and even the list of his Twitter followers, among whom are prominent foreign politicians and NGOs supportive of the pro-democracy movement in Hong Kong.<sup>34</sup>

On 7 December 2020, a high-ranking official of the newly created police unit responsible for investigating national security cases under the NSL alleged that former lawmaker Ted Hui had endangered national security by colluding with foreign elements because Hui had used the phrase "international line" (國際線), a term often used by the Hong Kong democracy movement to refer to international advocacy, in social media posts.<sup>35</sup>

Among the 47 political activists charged in connection with the July 2020 "primaries", Jeremy Tam Man-ho was denied bail after prosecutors submitted that Tam was corresponding with diplomats via email and

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<sup>30</sup> Hong Kong Free Press, "The Alternative Citizens' Deliberative Platform – a new way forward for Hong Kong's opposition", 20 December 2020, [hongkongfp.com/2020/12/20/the-alternative-citizens-deliberative-platform-a-new-way-forward-for-hong-kongs-opposition](https://www.hongkongfp.com/2020/12/20/the-alternative-citizens-deliberative-platform-a-new-way-forward-for-hong-kongs-opposition)

<sup>31</sup> Takungpao, "'Laam Chau' Camp organized illegal platform to cause disruption in Hong Kong, Caspar Tsui calls for termination before it's too late" (攞炒派搞非法亂港平台 徐英偉籲懸崖勒馬), 25 December 2020, [www.takungpao.com/hk/news/232109/2020/1225/535172.html](https://www.takungpao.com/hk/news/232109/2020/1225/535172.html)

<sup>32</sup> South China Morning Post, "Hong Kong opposition abandons plans to form platform for cross-party cooperation amid national security law threats", 31 December 2020, [www.scmp.com/news/hong-kong/politics/article/3116020/hong-kong-opposition-abandons-plans-form-platform-cross](https://www.scmp.com/news/hong-kong/politics/article/3116020/hong-kong-opposition-abandons-plans-form-platform-cross)

<sup>33</sup> See, for example: European Court of Human Rights, *The United Macedonian Organisation Ilinden – PIRIN and others v. Bulgaria*, Application no. 59489/00 (2005), para. 61.

<sup>34</sup> South China Morning Post, "Hong Kong media tycoon Jimmy Lai used tabloid and Twitter to push for illegal sanctions against local and Chinese authorities, prosecutors say", 12 December 2020, [www.scmp.com/news/hong-kong/law-and-crime/article/3113695/hong-kong-media-tycoon-jimmy-lai-denied-bail-national](https://www.scmp.com/news/hong-kong/law-and-crime/article/3113695/hong-kong-media-tycoon-jimmy-lai-denied-bail-national)

<sup>35</sup> Now News, "Police: Ted Hui claimed to expand the international line, allegedly colluding with foreign forces" (警方：許智峯稱要擴展國際線 涉勾結外國勢力), 7 December 2020, [news.now.com/home/local/player?newsId=415695](https://news.now.com/home/local/player?newsId=415695)

therefore was “still a man of interest to foreign powers”.<sup>36</sup> In the bail hearing for Claudia Mo Man-ching, prosecutors cited her interviews with foreign media outlets such as Bloomberg as evidence that she was likely to commit further acts that can endanger national security. The prosecution also presented records of online chats between Mo and journalists from the Wall Street Journal and BBC as evidence that she “remained vocal and highly influential in both local and international platforms and had always maintained close connection with the foreign diplomats of various countries”.<sup>37</sup>

The “evidence” cited by the police and prosecutors in these cases are purely legitimate expressions of opinion, which though critical of the government are permissible under international human rights law and must not be criminalized.

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<sup>36</sup>CFI, *Secretary for justice v. Tam Man Ho Jeremy Jansen*, [2021] HKCFI 791, 22 April 2021, [legalref.judiciary.hk/doc/judg/word/vetted/other/en/2021/HCCP000114\\_2021.docx](https://www.legalref.judiciary.hk/doc/judg/word/vetted/other/en/2021/HCCP000114_2021.docx)

<sup>37</sup> CFI, *HKSAR v. Mo Man Ching Claudia*, HKCFI 791, miscellaneous proceedings, 28 May 2021, [legalref.judiciary.hk/doc/judg/word/vetted/other/en/2021/HCCP000134\\_2021.docx](https://www.legalref.judiciary.hk/doc/judg/word/vetted/other/en/2021/HCCP000134_2021.docx)

# 3. HUMAN RIGHTS VIOLATIONS ENABLED BY THE NSL

Since 1 July 2020, Amnesty International has documented a wide range of human rights violations related to the implementation of the NSL. In particular, the law seriously threatens fair trial rights by granting law enforcement extensive investigatory powers, undermining the presumption of innocence of suspects, weakening safeguards in existing laws and depriving local courts of the power to review the compatibility of the NSL and the human rights safeguards in international and local laws. This section provides examples of human rights violations in relation to various provisions in the NSL and the local courts' interpretation of these provisions.

The NSL grants law enforcement investigators powers that are not conferred by other laws in Hong Kong. To investigate relevant cases, authorities can search properties, freeze or confiscate assets and engage in covert surveillance, including intercepting communications without a court order. This means that police can investigate any case they claim to be related to national security with these extensive powers without any regular judicial examination of whether such operations comply with local and international human rights standards.

The HKPF National Security Department (NSD), the newly created police unit responsible for investigating national security cases under the NSL, has also been involved in investigations of alleged offences that do not fall under the NSL. In September 2020, activist Tam Tak-chi was arrested and charged with 14 counts of offences under the provisions of the Hong Kong Sedition Ordinance and the Public Order Ordinance (both of which are Hong Kong statutes separate from the NSL). Although Tam was charged with acts alleged to have taken place prior to the enactment of the NSL and faced no charges under that law at that time, the NSD used its extensive power to investigate his case.

Article 43 of the NSL gives police extensive powers to search premises and obtain information, which effectively removes the protections enjoyed by journalistic materials in common law. When Jimmy Lai was arrested on 10 August 2020, police raided the Apple Daily office and newsroom, rifling through documents that may have contained journalistic materials.<sup>38</sup> It was reported that the police also visited the local office of Nikkei, a Japanese financial newspaper, with a court order.<sup>39</sup> On 17 June 2021, police once again raided the Apple Daily office building in an operation to arrest five senior executives under the provisions of the NSL. With a warrant issued under Article 43(1)(2) of the NSL that granted police the power to search and seize journalistic materials, a reported 500 police officers condoned off the building and seized computers and documents.<sup>40</sup> The protection of journalistic materials is crucial to enabling the media to expose wrongdoing without fear of retribution, which is the reason why these materials have generally received legal protection from seizure. In

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<sup>38</sup> Amnesty International, "Hong Kong: Targeting of pro-democracy newspaper threatens press freedom" ([News](#), 10 August 2020).

<sup>39</sup> Hong Kong Free Press, "Hong Kong police visit local newsroom, sift through past – despite security law being non-retroactive", 28 August 2020, [hongkongfp.com/2020/08/28/hong-kong-police-visit-local-newsroom-sift-through-past-despite-security-law-being-non-retroactive](https://www.hongkongfp.com/2020/08/28/hong-kong-police-visit-local-newsroom-sift-through-past-despite-security-law-being-non-retroactive)

<sup>40</sup> Amnesty International, "Hong Kong: Apple Daily raid, arrests a brazen attack on press freedom", 17 June 2021, [www.amnesty.org/en/latest/news/2021/06/hong-kong-apple-daily-raid-arrests-a-brazen-attack-on-press-freedom](https://www.amnesty.org/en/latest/news/2021/06/hong-kong-apple-daily-raid-arrests-a-brazen-attack-on-press-freedom)

addition to damaging press freedom, the removal of such protection also puts confidential sources and informants at imminent risk.<sup>41</sup>

The extent to which police powers have been expanded under the NSL is problematic on its face. The involvement of the HKPF's national security unit even in cases in which national security charges eventually are not brought means that the authorities are exercising these virtually unchecked investigative powers in cases potentially unrelated to national security. In these instances, there is little that can be done to prevent potential human rights violations during the investigative process. Furthermore, the prospect of police units authorized to exercise these powers being deployed to handle criminal investigations outside the scope of the NSL risks "normalizing" these exceptional powers and removing limits intended to protect individuals from arbitrary criminal investigation.

Moreover, some of the existing human rights safeguards in Hong Kong's criminal process are already in need of strengthening. For example, for decades the UN Human Rights Committee has expressed concerns about the lack of an impartial and effective mechanism to investigate police misconduct in Hong Kong.<sup>42</sup> There has also been an increasing number of media reports, in some cases corroborated through Amnesty International's research, about officers physically assaulting detainees or delaying detainees' access to lawyers.<sup>43</sup> Individuals abused by officers in detention facilities often do not speak out for fear of retaliation.

Because the NSL authorizes extensive investigative powers and can potentially exempt law enforcement agencies from fulfilling existing obligations to respect and protect human rights stipulated in Hong Kong laws, the new law makes the already incomplete human rights safeguards in Hong Kong's criminal process even less effective. The NSL grants immunities and vast exemptions to the national security institutions and their personnel and in fact states explicitly that it trumps any Hong Kong laws in case of conflict. The new central government Office for Safeguarding National Security and its staff do not fall under Hong Kong's jurisdiction, meaning that any operations or other actions in the city are not reviewable by local courts or subject to local laws.

## STRINGENT THRESHOLD FOR BAIL AND PROLONGED PERIOD OF PRETRIAL DETENTION

Article 42 of the NSL stipulates that individuals suspected of violating the NSL are to be denied bail "unless the judge has sufficient grounds for believing that they will not continue to commit acts endangering national security". In practice, the burden of establishing these grounds is placed on the suspect, rather than the state being required to prove the necessity and proportionality of pretrial detention. This effective reversal of the presumption of bail runs counter to the normal practice in criminal prosecutions in Hong Kong and to international human rights law and standards. As of 23 June 2021, 45 individuals officially prosecuted under the NSL were being held in custody after being denied bail.

Jimmy Lai, the owner of pro-democracy newspaper Apple Daily, was held in detention after being charged with fraud on 3 December 2020. He was subsequently charged with the NSL offence of "colluding with foreign forces" on 11 December 2020. Lai appealed against the refusal of bail and was granted bail on 23 December for HK\$10 million (approximately US\$1.29 million) in cash and a deposit of HK\$300,000 (approximately US\$39,000) from a surety. As further conditions of the bail, Lai agreed to be placed under house arrest and submit to a ban on taking media interviews, using social media, publishing articles and meeting foreign officials.<sup>44</sup>

The High Court judge, one of the judges specifically designated to preside over national security cases under the NSL, said he granted Lai bail because there was merit to Lai's defence and the stringent bail conditions he had imposed were in line with the high threshold of granting bail under the NSL.<sup>45</sup> In response, People's Daily, a newspaper directly associated with the Central Committee of the Chinese Communist Party, slammed the decision and called for the Office for Safeguarding National Security of the Central People's Government

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<sup>41</sup> Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report, 8 September 2015, UN Doc. A/70/361.

<sup>42</sup> UN Committee against Torture (CAT), Concluding observations: Hong Kong Special Administrative Region, 19 January 2009, UN Doc. CAT/C/HKG/CO/4 (2009), para. 12; CAT, Concluding observations: Hong Kong Special Administrative Region, 3 February 2016, UN Doc. CAT/C/CHN-HKG/CO/5, para. 8.

<sup>43</sup> Amnesty International, "Hong Kong: Arbitrary arrests, brutal beatings and torture in police detention revealed" (previously cited)

<sup>44</sup> South China Morning Post, "Hong Kong media tycoon Jimmy Lai has arguable case and bail conditions were met, High court judge says", 29 December 2020, [www.scmp.com/news/hong-kong/law-and-crime/article/3115723/hong-kong-media-tycoon-jimmy-lai-has-arguable-case-and](http://www.scmp.com/news/hong-kong/law-and-crime/article/3115723/hong-kong-media-tycoon-jimmy-lai-has-arguable-case-and)

<sup>45</sup> CFI, HKSAR v. Lai Chee Ying, miscellaneous proceedings (previously cited).

in the Hong Kong Special Administrative Region to take over jurisdiction of the case, saying the decision had caused “profound injury” to rule of law in Hong Kong.<sup>46</sup> Lai was placed in detention again on 31 December 2020 after the Court of Final Appeal, Hong Kong’s highest court, partly allowed the prosecution’s appeal against Lai’s bail on the grounds that the court should make safeguarding national security a top priority when considering bail.<sup>47</sup>

When Jimmy Lai challenged the high court’s rejection of his bail application, the top court stated clearly it has “no power to hold any provision of the NSL to be unconstitutional or invalid as incompatible with the Basic Law and Bill of Rights” because the NSL explicitly stated that the courts have no review power over the law.<sup>48</sup> In that case, the court further ruled that judges should only grant bail when an individual can prove that they will not commit any “acts of that nature capable of constituting an offence under the NSL or the laws of the HKSAR safeguarding national security”.<sup>49</sup> The judgment sets out that judges should “consider everything that appears to the court to be relevant to making the bail decision, including the possible imposition of appropriate bail conditions and materials which would not be admissible as evidence at the trial”.<sup>50</sup> According to barristers and lawyers handling NSL cases, this interpretation means that virtually anything said and done by the defendant at any point of their life can be used as evidence against their bail applications.<sup>51</sup>

Article 14(2) of the ICCPR maintains that everyone charged with a criminal offence should have the right to be presumed innocent until proven guilty. Article 9(3) of the same treaty states that pretrial detention should not be a general rule; this means it should only be utilized exceptionally if necessary in the individual case.<sup>52</sup> The presumption of innocence is an essential part of the right to fair trial.<sup>53</sup> The presumption that a person charged with a criminal offence will not be detained pending trial is closely linked to both the presumption of innocence and the right to liberty.<sup>54</sup> By effectively reversing the presumption of innocence and placing the burden on the defence to establish that pretrial detention is unnecessary and disproportionate, the NSL violates core principles of the rights to fair trial and to liberty and security of the person.

When defendants face an unreasonably stringent threshold for bail and repeated rejection of their bail applications, even after agreeing to very extensive and sometimes unprecedented restrictions, and when they then cannot file a judicial review for the compatibility of the law and the human rights safeguards in local and international laws because the courts have decided that the law deprives them of the power to do so, it effectively leaves them without a remedy. Those defendants, some of whom have been arrested solely for exercising the right to freedom of expression, are consequently being held in extended periods of pretrial detention. Of all the individuals charged with offences under the NSL, nearly 75% have been remanded into custody after having their bail applications rejected, some for more than 330 days since their arrest.

It is a recognized principle of the common law applicable in Hong Kong that no one should be effectively deprived of bail by having to meet excessive requirements: “It is a cardinal principle of justice and in matters of granting bail that the conditions should not be such as amount to a total negation of bail.”<sup>55</sup> The NSL in its wording and application makes “negation of bail” the default position, but it appears that Hong Kong courts see themselves unable to do anything about it.

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<sup>46</sup> Article 55 stipulates that the Office for Safeguarding National Security of the Central People’s Government in the Hong Kong Special Administrative Region can, at the request of the Hong Kong government, exercise jurisdiction over cases that are complex, serious or involves situations where the Hong Kong government is unable to enforce the NSL; People’s Daily, “Granting Jimmy Lai bail harms Hong Kong’s rule of law too much” (批准黎智英保釋 对香港法治伤害太深), 26 December 2020, [wap.peopleapp.com/article/6085777/5996965](http://wap.peopleapp.com/article/6085777/5996965)

<sup>47</sup> South China Morning Post, “Hong Kong national security law: media tycoon Jimmy Lai sent back behind bars as top court allows prosecutors to appeal against release on HK\$10 million bail”, 31 December 2020, [www.scmp.com/news/hong-kong-politics/article/3115991/hong-kong-national-security-law-jimmy-lai-back-custody](http://www.scmp.com/news/hong-kong/politics/article/3115991/hong-kong-national-security-law-jimmy-lai-back-custody)

<sup>48</sup> Hong Kong Court of Final Appeal (CFA), *HKSAR v. Lai Chee Ying*, [2021] HKCFA 3, final appeal judgement, 9 February 2021, [legalref.judiciary.hk/doc/judg/word/vetted/other/en/2021/FACC000001\\_2021.doc](http://legalref.judiciary.hk/doc/judg/word/vetted/other/en/2021/FACC000001_2021.doc)

<sup>49</sup> CFA, *HKSAR v. Lai Chee Ying*, final appeal judgement (previously cited).

<sup>50</sup> CFA, *HKSAR v. Lai Chee Ying*, final appeal judgement (previously cited).

<sup>51</sup> Stand News, “The cage of the NSL Part 1: Criminalizing speech, no bail, what are arrestees under the NSL experiencing?” (國安法之籠。上以言入罪、保釋無門，國安法被告在經歷什麼?), 25 May 2021, [bit.ly/3pcvSTm](http://bit.ly/3pcvSTm)

<sup>52</sup> HRC, General Comment 35: Liberty and security of person (Art. 9), 16 December 2014, UN Doc. CCPR/C/GC/35, para. 38.

<sup>53</sup> UN Working group on protecting human rights while countering terrorism, *The basic human rights reference guide: Right to fair trial and due process in the context of countering terrorism*, October 2014, [www.ohchr.org/en/newyork/documents/fairtrial.pdf](http://www.ohchr.org/en/newyork/documents/fairtrial.pdf), para. 46,

<sup>54</sup> Amnesty International, *Fair Trial Manual* (Index: POL 30/002/2014), p. 61.

<sup>55</sup> Law Reform Commission of Hong Kong, “Bail in criminal proceedings”, 1989, [www.hkreform.gov.hk/en/docs/rbail-e.pdf](http://www.hkreform.gov.hk/en/docs/rbail-e.pdf), p. 67.



## GWYNETH HO KWAI-LAM



Gwyneth Ho Kwai-lam is a journalist-turned-activist who has worked for the BBC and StandNews (立場新聞), a local independent online media group. A lot of Hong Kong people first came to know her from her online livestream videos reporting the anti-ELAB protests in 2019.

Gwyneth was reporting live at the Yuen Long train station on 21 July 2019, when a group of people in white shirts and carrying metal rods and bamboo sticks attacked passengers, including those returning from a protest site. At least 45 people were injured in the attack. Using her camera, she documented the attack that evening, even when she was being beaten and chased by the group herself.

“In this faceless protest, personal reputation is a scarce resource,” she said in an interview. “I was empowered by the movement. Now, I would like to

return my power to where the movement needs. Even though this is a faceless movement, it does not mean that the voices of protesters must be muffled by institutional hurdles.

“I stopped being a journalist because I want to become an activist. I want to walk with people in Hong Kong.”<sup>56</sup>

However, her vision did not come true. Gwyneth is one of the 47 people prosecuted for running in the “primaries” in July 2020.

Gwyneth Ho was not granted bail following her arrest. In her statement to the court, Gwyneth resolutely rejected any bail conditions that would restrict her right to freedom of expression.

“After reading the national security law, studying all the decisions on bail applications and listening to the reasoning from both the prosecution and the defendant, I still fail to grasp what kind of bail conditions can stop one from ‘violating the NSL’,” she told the court.

“I think the sincerest way for me to submit my application is to make it clear that I will accept any bail condition the court imposes... But there is one exception. I am aware that your honour is considering different kinds of bail conditions, including those that restrict the right to freedom of expression of the defendants. Although I said I would accept any bail conditions the court imposes, I hope to declare here that I do not accept any bail condition that imposes any restriction on my right to freedom of expression on any platform, and on any issue.”<sup>57</sup>

Along with 31 other activists, Gwyneth has been remanded into pretrial detention for nearly four months solely for exercising her right to freedom of peaceful expression.

## FREEDOM OF MOVEMENT

Article 43(2) of the NSL requires that all suspects arrested under the NSL surrender their travel documents to the police. In multiple instances, arrestees have been required to surrender their travel documents even when

<sup>56</sup> Stand News, “Joining New Territories East pro-dem primaries, former journalist Gwyneth Ho: Legislative Council must help strengthen the resistance, hoping to return the energy she received from the movement back to the movement” (參與新界東民主派初選 前記者何桂藍：議會須助燃抗爭，望將運動賦予她的能量還給運動), 18 June 2020, [bit.ly/3xsUjP9](https://bit.ly/3xsUjP9)

<sup>57</sup> The Reporter, “Gwyneth Ho: I do not accept any conditions that restrict freedom of expression” (何桂藍：我不接受任何限制言論自由的保釋條件), 5 March 2021, [www.twreporter.org/a/hong-kong-national-security-law-arrest-bail-hearing-statement-gwyneth-ho-kwai-lam](https://www.twreporter.org/a/hong-kong-national-security-law-arrest-bail-hearing-statement-gwyneth-ho-kwai-lam)

the police had not yet collected adequate evidence to press any charge.<sup>58</sup> This risks being a disproportionate limitation to their right to freedom of movement.

Confiscating travel documents restricts a person's freedom of movement as international travel often requires appropriate documents.<sup>59</sup> Article 12(3) of the ICCPR stipulates that no one's liberty to movement, including to leave one's own or any other country, should be deprived but on grounds that are provided for by law and necessary and proportionate for a legitimate aim. As for all permissible restrictions of human rights, this means they must be exceptional, based on clear and precisely framed legal grounds, and as non-intrusive as possible.<sup>60</sup> The restriction must also be consistent with the other rights guaranteed in the ICCPR.<sup>61</sup> These include the protections against arbitrary detention, unfair trials, excessive restrictions of the rights to freedom of expression, peaceful assembly or association, and prohibited discrimination on the basis of their political opinion. According to the UN Human Rights Committee: "[L]iberty of movement is an indispensable condition for the free development of a person."<sup>62</sup> Confiscating travel documents when there is inadequate evidence to press charges risks not fulfilling these strict criteria.

## RETROACTIVITY

Although both Beijing and Hong Kong officials have declared on various occasions that the NSL would not be applied retroactively, the HKPF National Security Department has investigated incidents preceding enactment of the law after invoking the law to arrest activists like Agnes Chow, Andy Li and Wilson Li.<sup>63</sup> Police also gathered evidence, including social media posts, from as early as July 2019 to press national security charges against Jimmy Lai.<sup>64</sup>

It is highly problematic to cite behaviours that took place prior to the enactment of the NSL as evidence that these activists violated the NSL. The principle of non-retroactivity would be infringed if the NSL is actually applied to offences committed before its provisions came into force. International human rights law stipulates that no criminal law should be retroactively applied in any circumstances.<sup>65</sup> Changes in rules of procedure and evidence under certain circumstances can also lead to retroactive application.<sup>66</sup> The principle of legality requires, first, that the prosecution prove each element of the crime to the required legal standard; second, that the accused need to have had certainty, foreseeability of criminalization and the enjoyment of legal benefits as existing at the time (meaning that at the time of commission, they needed to know that their acts or omissions would lead to potential criminal liability); and, third, that criminal courts do not punish acts that are not punishable under the law(s) cited in the charges. These strict rules provide safeguards against arbitrary prosecution, conviction and punishment. It is therefore contradictory to use acts that were not criminalized at the time of commission as evidence for alleged wrongdoing after enactment of the law.

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<sup>58</sup> HK01, "Agnes Chow released, passport confiscated, arrested under NSL 'the scariest of all arrests'" (周庭獲准保釋被收特區護照指涉國安法被捕是「最驚的一次」), 11 August 2020, [bit.ly/3IOV2E0](https://bit.ly/3IOV2E0); Hong Kong Free Press, "Hong Kong security law: Freelancer for UK's ITN among two more arrested, as journalism watchdogs sound alarm", 10 August 2020, [hongkongfp.com/2020/08/10/hong-kong-security-law-freelancer-for-uks-itn-among-two-more-arrested-as-journalism-watchdogs-sound-alarm](https://hongkongfp.com/2020/08/10/hong-kong-security-law-freelancer-for-uks-itn-among-two-more-arrested-as-journalism-watchdogs-sound-alarm)

<sup>59</sup> HRC, General Comment 27: Freedom of movement (Art. 12), 2 November 1999, UN Doc. CCPR/C/21/Rev.1/Add.9, [www.refworld.org/pdfid/45139c394.pdf](https://www.refworld.org/pdfid/45139c394.pdf), para. 9.

<sup>60</sup> See also the Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, UN Doc. E/CN.4/1985/4 Annex, paras 8-12, which sets out that: (1) No limitation on a right may be discriminatory; (2) Any limitations must respond to a pressing public or social need, pursue a legitimate aim, and be proportional to that aim; (3) States should use no more restrictive means than are required for the achievement of the purpose of the limitation; (4) The burden of justifying a limitation lies with the state; (5) Every limitation imposed shall be subject to the possibility of challenge to and remedy against its abusive application.

<sup>61</sup> HRC, General Comment 27 (previously cited), para. 18.

<sup>62</sup> HRC, General Comment 27 (previously cited), para. 1.

<sup>63</sup> South China Morning Post, "National security law for Hong Kong 'not retroactive', but can it be compatible with mainland Chinese legislation?", 15 June 2020, [www.scmp.com/news/hong-kong/politics/article/3089166/national-security-law-hong-kong-not-retroactive-can-it-be](https://www.scmp.com/news/hong-kong/politics/article/3089166/national-security-law-hong-kong-not-retroactive-can-it-be); RTHK, "Law won't be retroactive, Carrie Lam tells the UN", 30 June 2020, [ews.rthk.hk/rthk/en/component/k2/1534945-20200630.htm](https://ews.rthk.hk/rthk/en/component/k2/1534945-20200630.htm); Hong Kong Free Press, "Hong Kong police visit local newsroom, sift through past – despite security law being non-retroactive", 28 August 2020, [hongkongfp.com/2020/08/28/hong-kong-police-visit-local-newsroom-sift-through-past-despite-security-law-being-non-retroactive](https://hongkongfp.com/2020/08/28/hong-kong-police-visit-local-newsroom-sift-through-past-despite-security-law-being-non-retroactive); AFP, "Outcry over Hong Kong media mogul Jimmy Lai's arrest", 11 August 2020, [news.yahoo.com/hong-kong-media-mogul-jimmy-023018691.html](https://news.yahoo.com/hong-kong-media-mogul-jimmy-023018691.html)

<sup>64</sup> Radio Free Asia, "Hong Kong media mogul charged over actions, speech predating security law", 14 December 2020, [www.rfa.org/english/news/china/charged-12142020131823.html](https://www.rfa.org/english/news/china/charged-12142020131823.html)

<sup>65</sup> ICCPR, Articles 4 and 15(1).

<sup>66</sup> UN Human Rights Committee, Views: *Nicholas v. Australia*, adopted on 19 March 2004, UN Doc. CCPR/C/80/D/1080/2002, para 7.7

# SPECIALLY APPOINTED JUDGES

Under Article 44 of the NSL, the Chief Executive of the HKSAR has the power to designate judges at each court level to handle cases including appeals in relation to the National Security Law. According to an official booklet introducing the NSL, before doing so, the Chief Executive may consult the Chief Justice of the Court of Final Appeal and the Committee for Safeguarding National Security.<sup>67</sup>

The independence and impartiality of tribunals tasked with criminal proceedings, as required by Article 14(1) of the ICCPR, is essential to a fair trial, protects the integrity of the justice system itself, and is a prerequisite of the rule of law. The courts as institutions and each judge must be independent. This means that the people appointed as judges must be selected primarily on the basis of their legal expertise and integrity.<sup>68</sup> The UN Human Rights Committee has stated that the requirement of independence sets conditions as to the appointment of judges; their security of tenure; conditions governing promotion, transfer, suspension and cessation of their functions; and the actual independence of the judiciary from the executive.<sup>69</sup> These two branches of government must be clearly and effectively separated in order to safeguard against excessive and abusive use of either's powers. If the executive branch, and ultimately the head of government, is responsible for appointment or removal of judges for special criminal procedures, this raises grave concerns with regard to whether a genuinely independent and impartial tribunal has been established.<sup>70</sup> Instead, judges must be insulated from concerns that their post will be affected by political reaction to their decisions.

According to international human rights standards, the requirement of independence and impartiality of the court, including tribunals specially constituted for exceptional and specifically justified categories of cases, is an absolute right that is not subject to any exception.<sup>71</sup> The Hong Kong government is bound by obligations stipulated in the ICCPR and other international legal standards to take specific measures guaranteeing such independence.<sup>72</sup>

A situation in which the executive is able to control the judiciary is incompatible with the notion of an independent tribunal. Selection and appointment procedures should be transparent, based on clear and objective criteria, without discrimination such as on the basis of political opinion, and must “safeguard against judicial appointments for improper motives”.<sup>73</sup> For this purpose, an independent commission on the appointment of judges plays a crucial role in ensuring judicial independence. Authorizing Hong Kong's Chief Executive to appoint judges without the participation of an independent commission removes an important safeguard for an impartial and independent judiciary.

# RIGHT TO LEGAL COUNSEL

On 10 August 2020, Andy Li, a student activist who invited foreign experts to observe the district council elections in 2019, was arrested under the NSL but subsequently released on bail. On 23 August, the mainland Chinese coast guard intercepted and arrested Li and 11 other individuals for “illegally crossing borders” when they reportedly left Hong Kong by boat to seek asylum. After serving a seven-month prison sentence in mainland China, Andy Li was transferred back to Hong Kong on 22 March 2021.

Following his return to Hong Kong police charged Li with “possessing ammunition without a license”, “colluding with foreign or external elements to endanger national security” and “conspiracy to assist offenders”. Li's family said police and correctional service officials refused to disclose Li's whereabouts. They only saw Li at his trial on 7 April 2021. Li's sister said the lawyer representing Li's case in Hong Kong was not hired by the family.<sup>74</sup> According to media reports, Li's lawyer said he “is not obligated” to discuss Li's

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<sup>67</sup> HKSAR, *The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region*, 2020, p. 29.

<sup>68</sup> UN Basic Principles on the Independence of the Judiciary, Principle 10.

<sup>69</sup> HRC, General Comment 32: Right to equality before courts and tribunals and to a fair trial (Art. 14), 23 August 2007, UN Doc. CCPR/C/GC/32, [undocs.org/en/CCPR/C/GC/32](https://www.unhcr.org/en/doc/CCPR/C/GC/32), para. 19.

<sup>70</sup> See UN Mechanisms Joint Report on detainees at Guantánamo Bay, 27 February 2006, UN Doc. E/CN.4/2006/120, para. 30.

<sup>71</sup> HRC, General Comment 32 (previously cited), para. 19.

<sup>72</sup> The relevant international legal standards include the Basic Principles on the Independence of the Judiciary and the Bangalore Principles of Judicial Conduct.

<sup>73</sup> Principle 10 of the Basic Principles on the Independence of the Judiciary; HRC, General Comment 32 (previously cited), para. 19.

<sup>74</sup> RTHK, “Andy Li's lawyer not hired by family, says sister”, 31 March 2021, [news.rthk.com.hk/rthk/en/component/k2/1583680-20210331.htm](https://www.rthk.com.hk/rthk/en/component/k2/1583680-20210331.htm)

instructions with his family. Also according to media reports, Li has not applied for legal aid or duty lawyer service.<sup>75</sup>

A range of international human rights standards set out a person's right to access legal assistance during pretrial proceedings, trials and appeals.<sup>76</sup> The state has the responsibility to ensure that everyone should be represented by counsel of choice or an appointed lawyer who is able to provide advice free from intimidation, hindrance or other improper interference.<sup>77</sup>

## ADEQUATE TIME AND FACILITIES TO PREPARE A DEFENCE

The 47 political activists charged with “conspiracy to subversion” in connection with the July 2020 “primaries” had to attend exhausting preliminary hearings over multiple days in March 2021 lasting as long as 17 hours per day while the court struggled to process the unprecedented mass arraignment that led to most of the accused being remanded to pretrial detention.<sup>78</sup>

The court decided on 31 May 2021 that it would rule on the prosecution's application to move the case of the 47 political activists to the High Court, which would raise the maximum possible prison sentence facing the defendants from seven years to life if convicted.<sup>79</sup> Some lawyers representing the 47 political activists expressed concern, as they were given little guidance from the prosecution on the offence of “conspiracy to subversion”. The judge appointed by the Chief Executive to adjudicate NSL cases did not approve the defendants' lawyers' request for information, such as the jury arrangements or sentencing range.<sup>80</sup>

According to international law, a fair trial demands adequate time and facilities to prepare the defence.<sup>81</sup> The exhausting and overly long trials impeded these guarantees. The defence and prosecution must also be treated in a manner that ensures that both parties have an equal opportunity to prepare and present their cases.<sup>82</sup> When an individual is charged, defence lawyers must be given information sufficient and detailed enough to allow preparation of the defence as soon as possible.<sup>83</sup>

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<sup>75</sup> HK01, “Andy Li did not apply for legal aid or duty lawyer. Representing lawyer Lawrence Law suspended twice for misconduct” (李宇軒無申法援及當值律師服務 代表律師羅達雄兩次行為失當停牌), 8 June 2021, [bit.ly/3iU3iJn](https://bit.ly/3iU3iJn)

<sup>76</sup> Amnesty International, *Fair Trial Manual* (previously cited), p. 43.

<sup>77</sup> Amnesty International, *Fair Trial Manual* (previously cited), p. 44.

<sup>78</sup> Amnesty International, “Hong Kong: Prosecution of opposition figures an unprecedented attack on human rights” (previously cited).

<sup>79</sup> In Hong Kong, the maximum term of imprisonment district courts can impose is seven years. The High Court can impose life imprisonment.

<sup>80</sup> South China Morning Post, “National security law: 47 Hong Kong opposition figures charged with subversion facing potential life sentences after trial moved to High Court”, 31 May 2021, [www.scmp.com/news/hong-kong/law-and-crime/article/3135525/national-security-law-47-hong-kong-opposition-figures](https://www.scmp.com/news/hong-kong/law-and-crime/article/3135525/national-security-law-47-hong-kong-opposition-figures)

<sup>81</sup> Amnesty International, *Fair Trial Manual* (Index: POL 30/002/2014), p. 74.

<sup>82</sup> General Comment 32 (previously cited), para. 32.

<sup>83</sup> General Comment 32 (previously cited), para. 31.

# 4. INTERNATIONAL HUMAN RIGHTS FRAMEWORK

The Hong Kong Basic Law, the constitutional document for the Hong Kong Special Administrative Region, states that the provisions of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which were ratified by the UK and extended to Hong Kong in 1976, shall remain in force and shall be implemented through local laws. Under the Basic Law, the rights and freedoms enjoyed by Hong Kong residents and others in Hong Kong shall not be restricted unless as prescribed by law and any such restrictions shall not contravene the provisions of the ICCPR.<sup>84</sup> Hong Kong is further bound by the Convention against Torture, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and other international human rights treaties.<sup>85</sup>

According to internationally recognized human rights standards, as reflected, for instance, in the Johannesburg Principles on National Security, Freedom of Expression and Access to Information (Johannesburg Principles),<sup>86</sup> “national security” cannot be invoked to justify restrictions on rights and freedoms unless genuinely and demonstrably intended to protect a state’s existence or territorial integrity against specific threats of the use of force; nor can this national security framework legitimately be applied by governments to protect themselves against embarrassment or exposure of wrongdoing, or to entrench a particular ideology.<sup>87</sup>

According to the Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, a state cannot use national security as a reason to impose limitations on rights to prevent merely local or relatively isolated threats to law and order.<sup>88</sup> A state must also not invoke national security as a justification for measures aimed at suppressing opposition to human rights violations or at perpetrating repressive practices against its population.<sup>89</sup> Nor may this be used as an excuse to deny people the right to express different political views and to exercise their other human rights as protected by international legal standards. Expressions can only be punished on national security grounds if the authorities

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<sup>84</sup> Hong Kong SAR, Basic Law, Articles 4, 27, 34 and 39.

<sup>85</sup> Hong Kong is bound by customary international law and such international treaties as ratified by China (or the United Kingdom prior to 1 July 1997, when China resumed sovereignty over Hong Kong). Both the ICCPR and CAT were ratified by the UK government, as China did with the CAT in 1988, and remain binding on Hong Kong. The Convention on the Elimination of all forms of Discrimination Against Women was extended to Hong Kong by the United Kingdom in 1996 and continues to apply. China notified the UN Secretary-General in 1997 that the Convention on the Rights of the Child would apply to Hong Kong, subject to numerous reservations. China ratified the Convention on the Rights of Persons with Disabilities (CPRD) on 1 August 2008 and declared that the convention would apply to Hong Kong.

<sup>86</sup> Johannesburg Principles on National Security, Freedom of Expression and Access to Information, adopted on 1 October 1995 by a group of experts in international law, national security, and human rights convened by Article 19, the International Centre Against Censorship, in collaboration with the Centre for Applied Legal Studies of the University of the Witwatersrand in Johannesburg, [www.article19.org/data/files/pdfs/standards/joburgprinciples.pdf](http://www.article19.org/data/files/pdfs/standards/joburgprinciples.pdf)

<sup>87</sup> Johannesburg Principle 2.

<sup>88</sup> Siracusa Principles (previously cited), para. 30.

<sup>89</sup> Siracusa Principles (previously cited), para. 32.

can demonstrate a clear and imminent danger of violence.<sup>90</sup> In particular, advocacy for a change in government or government policy, if done peacefully, as well as criticism or even insult to a state's institutions or its symbols, or exposure of human rights violations, must not be penalized.<sup>91</sup> Likewise, demanding territorial changes in the form of autonomy or even secession in speeches and demonstrations does not automatically amount to a threat to the country's territorial integrity and national security.<sup>92</sup>

The UN Human Rights Committee, tasked with monitoring implementation of the ICCPR, has frequently rejected attempts to justify far-reaching restrictions with vague references to "national security". For example, this goal could never be served by attempts to muzzle advocacy of multi-party systems or human rights, or by decreasing the plurality of associations in a society – including associations that peacefully promote ideas not favourably received by the government. Consequently, prohibition of an organization or use of criminal prosecution to restrict the freedom to associate or to be a member of such an organization can only be justified if it is, in fact, necessary to avert a real, not just hypothetical, danger to national security.<sup>93</sup>

Furthermore, any provisions relating to national security, whether in the form of "treason" or "sedition" laws or similar, must strictly comply with the general rules on freedom of expression.<sup>94</sup> Such provisions may not be used to reduce the civic space, including the online sphere, for debate and academic freedom. To punish people for simply publishing and distributing material expressing views that oppose the positions or policies of the government is a form of censorship.<sup>95</sup> The Human Rights Committee has further stated that, in any event, if "the very reason that national security has deteriorated is the suppression of human rights, this cannot be used to justify further restrictions, including on the right of peaceful assembly".<sup>96</sup>

International human rights law and standards further set out that any national security law must be accessible, unambiguous and formulated narrowly and with precision in order that individuals have the ability to foresee whether a particular act is unlawful. These are necessary requirements prescribed by the principle of legality, a core general principle of law, enshrined, among other places, in Article 15 of the ICCPR and Article 11 of the Universal Declaration of Human Rights. Without an explicit and effective requirement to comply with international human rights law, vague terms leave the law open to abuse by authorities who use it to crack down on a wide range of rights and freedoms.<sup>97</sup> Vaguely drafted laws can lead to a chilling effect and ultimately self-censorship in public debate, including online.

UN human rights experts have repeatedly expressed concerns about the NSL ever since the Chinese central government announced its plan to push the legislation through. Before the NSL was promulgated, seven UN special procedure mandate-holders expressed concerns that the law could fail to include assurances that the measures will be fully compliant with international human rights law. The experts also commented on the proposal's lack of precise definition for what types of conduct qualify as endangering national security and warned against potential limiting or infringement of fundamental freedoms.<sup>98</sup> After the law was enacted, the same human rights working group and special rapporteur mandate-holders renewed their concerns that the NSL did not comply with international human rights law.<sup>99</sup> This confirmed the criticism by 50 independent UN human rights experts in late June 2020 of the repression of human rights by China, including that the national security law would impose severe restrictions on civil and political rights in Hong Kong, undermine the right to a fair trial and risk a sharp rise in arbitrary detention and prosecution of peaceful human rights defenders.<sup>100</sup>

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<sup>90</sup> Johannesburg Principle 6.

<sup>91</sup> Johannesburg Principle 7.

<sup>92</sup> European Court of Human Rights, *Stankov and the United Macedonian Organisation Ilinden v. Bulgaria*, application numbers (29225/95 and 29221/95), 2001, para. 97.

<sup>93</sup> HRC, *Lee v. South Korea*, Communication No. 1119/2002, Views adopted on 20 July 2005, para 7.2, [www1.umn.edu/humanrts/undocs/1119-2002.html](http://www1.umn.edu/humanrts/undocs/1119-2002.html)

<sup>94</sup> HRC, General Comment 34: Freedom of opinion and expression (Art. 19), 12 September 2011, UN Doc. CCPR/C/GC/34, para. 30.

<sup>95</sup> See also Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Report (previously cited), para. 72.

<sup>96</sup> General Comment 37 (previously cited), para. 42.

<sup>97</sup> See, for example, Working Group on Arbitrary Detention, Report, 15 December 2003, UN Doc. E/CN.4/2004/3, paras 64-65.

<sup>98</sup> Comments on the Decision of the National People's Congress on Establishing and Improving the Legal System and Enforcement Mechanisms for Safeguarding National Security in the Hong Kong Special Administrative Region, 19 June 2020, UN Doc. OL CHN 13/2020, [spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25354](http://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25354).

<sup>99</sup> Comments on The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region ("National Security Law"), 1 September 2020, UN Doc. OL CHN 17/2020, [spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25487](http://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25487).

<sup>100</sup> Office of the High Commissioner for Human Rights, "UN experts call for decisive measures to protect fundamental freedoms in China", 26 June 2020, [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26006&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26006&LangID=E)

# 5. CONCLUSION AND RECOMMENDATIONS

While protection of “national security” is in principle a legitimate ground for the restriction of many human rights, the NSL falls foul of international standards in this area. Amnesty International recognizes that every government has the right and duty to protect its citizens and that some countries have specific security concerns that differ from others. However, these concerns may never be used as an excuse to deny people the ability to exercise their human rights as protected by international legal standards. States should ensure that all measures aimed at protecting national security fully comply with their obligations under international human rights law. It is evident that the Hong Kong NSL widely ignores generally accepted notions of “national security”, and its protection through a human-rights compliant framework, in international law. The concerns voiced about the law from its inception have been validated by the implementation of the law so far, which has punished acts of peaceful expression and deterred people from exercising their right to freedom of expression.

Hong Kong’s NSL has been used as a false pretext to curb dissent. Purported acts of “secession” and “subversion” can be committed without any use or threat of force or violence. The law gives no exemptions for peaceful protests, advocacy or similar activities protected by the right to freedom of expression. The authorities must immediately amend existing laws to ensure that any legal provisions aimed at protecting national security exclude from their scope the legitimate exercise of human rights and conform to international human rights and standards. Authorities must also stop using an excessively broad definition of “endangering national security” to disproportionately restrict rights and freedoms.

## RECOMMENDATIONS

### TO THE CHINESE CENTRAL AND HONG KONG GOVERNMENT

- Review and amend all laws and regulations, and end all related policies and measures, that violate the exercise of human rights, in particular freedom of expression, peaceful assembly and association, and ensure that any legal provisions aimed at protecting national security or created in the name of counterterrorism are clearly and narrowly defined and conform to international human rights law and standards.

### TO THE HONG KONG GOVERNMENT

- Drop all criminal charges against and release those who have simply exercised their right to freedom of expression or other human rights, and end the practice of bringing such charges in future;
- Ensure that restrictions permissible under the law are only used when demonstrably a specific and real – and not only hypothetical – danger to national security exists, involving a clear and imminent danger of violence, and that the least intrusive measures to achieve the stated purpose are used;
- Stop using politically motivated prosecutions and other legal procedures against peaceful protesters and others to silence critical voices and deter people from participation in the public sphere;

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- Ensure that any local legislation prohibiting any act of “endangering national security” must specifically exclude from its remit the legitimate exercise of human rights and that the Hong Kong authorities strictly and demonstrably adhere to their own human rights obligations in the implementation of any laws;
- Ensure that safeguards that are enshrined in Hong Kong law are strictly adhered to as a counterweight to the sweeping powers introduced by the national security law;
- Ensure that any new legislation applicable to the territory is subject to genuine and meaningful public and political scrutiny before entering into force.

## **TO THE UNITED NATIONS AND ITS MEMBER STATES**

- The United Nations (UN) Human Rights Council should convene a special session or urgent debate on the deteriorating human rights situation in China, including with regards to the implementation of the NSL in Hong Kong, and adopt a resolution to create a monitoring and reporting mechanism, in line with a global call by hundreds of civil society organizations from all regions and call to action by an unprecedented number of Special Procedures;
- All UN member states should refuse to use their platform at the UN Human Rights Council to publicly defend China’s rights record in Hong Kong or elsewhere, as some have continued to do, and should instead work with other states to raise concerns over the violations in Hong Kong and elsewhere in China and press China to take measures to halt violations and restore the protection of individuals’ human rights;
- The United Nations High Commissioner for Human Rights should fulfil her independent mandate to monitor and publicly report on China’s sweeping rights violations, including with respect to Hong Kong.

# APPENDIX

## LIST OF PEOPLE SOUGHT, ARRESTED OR PROSECUTED UNDER THE NSL (NON-EXHAUSTIVE)

Between 1 July and 23 June 2021, police in Hong Kong arrested or ordered the arrest of at least 113 people under the NSL. At least three individuals were under 18 at the time of arrest. As of 23 June 2021, 64 people have been formally charged.

Date of arrest	Name	Incident details (What did the person do) (prosecution evidence)	Charges (under NSL and other laws)	Current situation	Background
1/7/2020	TONG Ying-kit 唐英傑 (M)	Accused of riding a motorcycle into a group of police officers in Wanchai at a 1 July 2020 rally while carrying a flag bearing the popular protest slogan “Liberate Hong Kong, revolution of our times”.	Incitement to secession  Engaging in terrorist activities  Dangerous driving causing grievous bodily harm	Tong has been charged and denied bail.  He has been remanded into custody at Lai Chi Kok Reception Centre since 6 July 2021. This case will be heard by three judges, without jury. Tong challenged the decision of no jury but the court upheld the decision. Tong has filed an appeal.	
10/8/2020 17/02/2021	Jimmy LAI Chee-ying 黎智英 (M)	Accused of asking foreign and overseas institutions to sanction, blockade and take other “hostile actions” (敵對行動) against the HKSAR and PRC governments between 1 July and 1 December 2020.  Sources reported that Lai was arrested once again whilst on bail for assisting 12 individuals fleeing Hong Kong, including Andy Li, an activist also charged under the NSL and subsequently jailed in mainland China for illegally crossing the border. Lai was also accused of colluding with foreign forces through his international lobbying work.	Collusion with a foreign country or with external elements to endanger national security  Conspiracy to assist an offender and conspiracy to collude with a foreign country or with external elements to	Lai was initially denied bail. He appealed against the decision and was granted bail on 23 December with HK\$10 million in cash and a surety of HK\$300,000. As conditions of the bail, Lai was placed under house arrest and banned from taking media interviews, using social media, publishing articles and meeting foreign officials. <sup>101</sup>  On 31 December 2020, Lai was detained again after the Court of Final Appeal partly granted leave to the prosecution’s appeal against his bail. The Court of Final Appeal upheld the prosecution’s appeal on 9	Jimmy Lai is the founder of Next Digital (formerly Next Media) (壹傳媒有限公司), a media company critical of the central and Hong Kong government.

<sup>101</sup> South China Morning Post, “Hong Kong media tycoon Jimmy Lai has arguable case and bail conditions were met, High court judge says” (previously cited).

			endanger national security  Fraud	February 2021. Lai was again denied bail on 18 February 2021.  On 14 May 2021, police announced that they froze approximately HKD \$500 million (USD 64 million) in Lai's assets associated with Next Digital in May 2021, citing national security concerns.  In April and May 2021, Lai received a total of 20-month prison sentence for two unauthorized assemblies during the 2019 protests. He is currently serving his term at Stanley Prison.	
22/9/2020 15/10/2020	Adam MA Chun-man 馬俊文  (M)	Accused of chanting slogans and displaying placards "persistently" in public areas between 15 August and 22 November 2020. Ma is also accused of calling for Hong Kong independence in multiple interviews on online media platforms.  He was first arrested on 22 September 2020 for chanting pro-independence slogans in a protest in Tseung Kwan O and was arrested again in October for chanting pro-independence slogans in an assembly in Admiralty.	Incitement to secession	Ma has been charged and denied bail three times in November and December 2020 and March 2021.  He is currently remanded into custody at Lai Chi Kok Reception Centre.  In December 2020, Ma was accused of engraving words that read "advocating the independence of Hong Kong" on the wall of the cell in Lai Chi Kok Reception Centre. <sup>102</sup>  The Correctional Service Department has reported the case to police for follow-up.	
29/7/2020 27/10/2020	Tony CHUNG Hon-lam 鍾翰林  (M)	Accused of planning and participating in acts "with a view to commit secession" between 1 July and 27 October 2020.  Chung was first arrested on 29 July 2020, along with three other former members of the disbanded student-led political organization Studentlocalism. He was on bail until he was again arrested on 27 October for secession, right before he allegedly planned to seek protection at the US Consulate in Hong Kong.	Secession  Money laundering  Conspiring to publish seditious content	Chung was sentenced to four months' imprisonment on 29 December 2020 for desecrating the national flag and participating in an unlawful assembly in 2019. He finished serving the sentence on 1 March 2021.  He has been charged with secession under the NSL and remanded into custody since March 2021.	Tony Chung is a young activist and co-founder of Studentlocalism, a student political activism organization.  This group suspended all operation in Hong Kong on 30 June 2020 while its overseas branches continue to operate.

<sup>102</sup> Government of the Hong Kong SAR, "Correctional officers found person in custody suspected to have violated National Security Law", 29 December 2020, [www.info.gov.hk/gia/general/202012/29/P2020122900741.htm](http://www.info.gov.hk/gia/general/202012/29/P2020122900741.htm)

1/7/2020	CHEUNG (M)	Accused of wearing a T-shirt with the slogan “Free Hong Kong, Liberate Hong Kong, Revolution of our times” during a 1 July rally. Police found a “Hong Kong Independence” flag in his belongings.	Incitement to secession	Arrested, released on police bail	
1/7/2020	CHOW (F)	Accused of displaying a “Hong Kong Independence” placard during a 1 July rally.	Incitement to secession	Arrested, released on police bail	
1/7/2020	Unspecified (F)	Accused of possessing “One Nation, One Hong Kong” publications when joining a 1 July rally.	Incitement to secession or subversion	Arrested, released on police bail	
1/7/2020	Unspecified (F)	Accused of possessing “One Nation, One Hong Kong” publications when joining a 1 July rally.	Incitement to secession or subversion	Arrested, released on police bail	
1/7/2020	Unspecified (F)	Accused of waving a “Hong Kong Independence” flag during a 1 July rally.	Incitement to secession or subversion	Arrested, released on police bail	
1/7/2020	Unspecified (M)	Accused of wearing a “Free Hong Kong, Liberate Hong Kong, Revolution of our times” T-shirt.	Incitement to secession or subversion	Arrested, released on police bail	
1/7/2020	Unspecified (M)	Accused of possessing a “Liberate Hong Kong, Revolution of our times” mobile phone sticker and other stickers.	Incitement to secession or subversion	Arrested, released on police bail	
1/7/2020	Unspecified (M)	Accused of possessing a “Hong Kong Independence” flag.	Incitement to secession or subversion	Arrested, released on police bail	
1/7/2020	Unspecified (M)	Accused of possessing “Liberate Hong Kong, Revolution of our times” publications.	Incitement to secession or subversion	Arrested, released on police bail	
21/7/2020	Rayman CHOW Wai- hung 周偉雄  (M)	Accused of displaying a “Liberate Hong Kong, Revolution of our times” placard during an assembly to commemorate the first anniversary of the Yuen Long 721 incident.	Incitement to secession or subversion	Chow refused to continue to be bailed, so he was unconditionally released. It is unclear if the police will continue to investigate his case. <sup>103</sup>	Chow is a councillor of the Kwai Tsing District Council.

<sup>103</sup> Mingpao, “District Councillor Rayman Chow discontinued his bail and got bail money back, having been arrested for display of banner in July” (區議員周偉雄 7 月舉「光時」標語被捕 昨拒絕續保取回保釋金), 3 November 2020, bit.ly/3zSwDpo

29/7/2020	HO Nok-hang 何諾恆 (M)	Accused of establishing overseas organizations to call for "Hong Kong independence".	Secession and subversion	Ho was unconditionally released and returned his passport and bail cash on 18 January 2021, but his computer and possessions were confiscated by police for further investigation.	Ho is the former spokesperson of now-suspended student organization Studentlocalism.
29/7/2020 27/10/2020	Yanni HO 何忻諾 (F)	Accused of establishing overseas organizations to call for "Hong Kong independence".  On 27 October 2020, she was arrested again when she reported at a police station for previous arrests. She was accused of inciting secession by posting on social media since September 2020.	Secession and subversion	On 18 January 2021, Ho announced on her social media that police decided to release her unconditionally and returned the bail money and her travel documents, but her computer and possessions were confiscated by police further investigation. According to Ho, police told her that the possibility of an arrest is not ruled out.	Ho is a former member of now-suspended student organization Studentlocalism.
29/07/2020 27/10/2020	William CHAN Wai-yin 陳渭賢 (M)	Accused of establishing overseas organizations to call for "Hong Kong independence".  He was arrested again on 27 October 2020 for allegedly publishing on social media materials inciting secession since August-September 2020	Secession and subversion	Chan was unconditionally released and returned his passport and bail cash on 18 January 2021.	Former member of the now-suspended student organization Studentlocalism
	Nathan LAW Kwun-Chung 羅冠聰 (M)	Accused of promoting the independence of Hong Kong and lobbying other governments to sanction or boycott the central Chinese and Hong Kong governments.	Inciting secession	Allegedly wanted for inciting secession.  Wanted by court for failing to attend a court hearing for illegal assembly charge.  He has been granted asylum in the United Kingdom in 2021.	Law was one of the prominent student leaders during the Umbrella Movement in 2014.  He was elected as the youngest legislative council member in 2016 and was disqualified by the government in 2017.  Law left Hong Kong shortly after the NSL was enacted. He worried that continuing his political activism could pose an imminent threat to his personal safety.
	Mark Herman SIMON (M)	Accused of asking foreign and overseas institutions to sanction, blockade, and take other "hostile actions" (敵對行動) against the HKSAR and PRC governments.		Allegedly wanted, residing in the United States of America.	Simon is the former assistant to Jimmy Lai.
	CHAN Ka-kui Wayne 陳家駒 (M)	Accused of promoting Hong Kong independence and lobbying other governments to sanction or boycott the central Chinese and Hong Kong governments.	Inciting secession	Allegedly wanted for inciting secession, residing in the United Kingdom.  Wanted by court for failing to attend a court hearing for illegal assembly charge.	Chan is the former convener of the Student Independence Union, a now-disbanded pro-independence student group in Hong Kong. He was charged with unlawful assembly for his participation in the 9 June Anti-Extradition Bill Rally. Chan announced on 28 June 2020 that he had left Hong Kong. Chan has been wanted by the Hong Kong police for NSL-related offences since 31 July 2020.

	Simon CHENG Man-kit 鄭文傑 (M)	Accused of promoting Hong Kong independence and lobbying other governments to sanction or boycott the central Chinese and Hong Kong governments.	Inciting secession	Allegedly wanted for inciting secession. He was granted asylum by the United Kingdom in 2021.	Cheng was a former trade and investment officer of British Consulate.  Detained in China in August 2019 for 15 days, Cheng claimed to be tortured and forced confession.
Wanted, 31/7/2020	Ray WONG Toi-Yeung 黃台仰 (M)	Accused of promoting Hong Kong independence and lobbying other governments to sanction or boycott the central Chinese and Hong Kong governments.	Inciting secession	Wanted  Allegedly wanted for inciting secession, Wong is now residing in Germany. He was granted asylum by Germany in 2018 after being charged with rioting in 2016.	Wong is the founder of Hong Kong Indigenous, a pro-independence political group in Hong Kong.
Wanted, 31/7/2020	Honcques LAUS 劉康 (M)	Accused of promoting Hong Kong independence and lobbying other governments to sanction or boycott the central Chinese and Hong Kong governments.	Collusion with foreign and external forces to endanger national security	Allegedly wanted for collusion with foreign and external forces to endanger national security, Laus is residing in the United Kingdom.	Laus is the founder of the Hong Kong Utilitarian Party.  Laus first became known to the public after he displayed a pro-independence slogan at a student event attended by Chief Executive Carrie Lam in 2017. He was cleared of possessing an imitation firearm in 2019 following an appeal after bringing an airgun to a designated protest area near the Legislative Council.
	Samuel Muk-Man CHU 朱牧民 (M)	First non-Chinese national charged under the NSL.  Accused of advocating and lobbying the United States government on basic freedoms, the rule of law and autonomy in Hong Kong.	Collusion with foreign and external forces to endanger national security	Allegedly wanted for collusion with foreign and external forces to endanger national security, Chu resides in the USA.	Chu is a Hong Kong-born American activist and community organizer.
	Finn LAU Cho Dik 劉祖迪 (M)	Accused of associating with the “Hong Kong Liberty Team” which allegedly lobbied foreign governments to take measures against Hong Kong and China, also previously a member of the “Stand with Hong Kong” group.	Collusion with a foreign country or with external elements	Allegedly wanted, residing in the United Kingdom.	Lau coordinated a few prominent international advocacy campaigns under the pseudonym “Laam Chaa Ba”. He later revealed his identity online and announced the establishment of Hong Kong Liberty, a Hong Kong-focused non-partisan organization.
10/8/2020	Ian LAI Yiu-yan 黎耀恩 (M)	Arrested alongside his elder brother Timothy Lai Gin-yan on the same day. Timothy Lai was arrested for conspiracy to defraud.	Collusion with a foreign country or with external elements	Arrested, released on police bail	Lai is a businessman and owner of a restaurant chain.  He is also the second son of Jimmy Lai.
10/8/2020	Royston CHOW Tat-	Accused of financially supporting the “Fight for Freedom, Stand with Hong Kong” group.	Collusion with a foreign country or	Chow was arrested in August 2020 for collusion with foreign forces. He was later released on bail.	Chow is the Chief Operations Officer of Apple Daily.

	kuen 周達權 (M)	Chow was arrested again on 17 June 2021 after police accused Apple Daily of “colluding with foreign forces” by publishing articles, some prior to the enactment of the NSL, calling for sanctions against the Hong Kong and mainland Chinese governments.	with external elements  Fraud	Police charged Chow, Jimmy Lai and another senior executive at Apple Daily with fraud in December 2020.  He was released on bail again after his second arrest on 17 June 2021.	
10/8/2020	Wilson LI Chung-chak 李宗澤 (M)	Accused of running the “Fight for Freedom, Stand with Hong Kong” group online. Alleged to have organized and invited the Independent Electoral Observation Mission to scrutinize the 2019 District Council Election in Hong Kong.	Collusion with a foreign country or with external elements	Arrested, released on police bail	Li is a freelance journalist and former member of the now-suspended student organization Scholarism.
10/8/2020	Andy LI Yu-hin 李宇軒 (M)	Accused of running the “Fight for Freedom, Stand with Hong Kong” group online. Alleged to have organized and invited the Independent Electoral Observation Mission to scrutinize the 2019 District Council Election in Hong Kong.	Collusion with a foreign country or with external elements, conspiracy to assist offenders and possession of ammunition without a licence	Prosecuted on 24 March 2021, remanded in custody.  According to media reports, Li has been detained in isolation at the Siu Lam Psychiatric Centre according to reports at the end of March 2021. <sup>104</sup>	Li is a member of Hong Kong Story, a local advocacy group  Li was among the 12 who were intercepted at sea by the Chinese Coast Guard during a failed escape to Taiwan in 2020. Among the 12 Hongkongers who were formally arrested in mainland China for “secretly crossing the border” and “organizing other persons to secretly cross the border” on 30 September 2020. <sup>105</sup> On 28 December, Li and seven other arrested Hongkongers were sentenced to seven months’ imprisonment for illegal border-crossing.  Barristers Lawrence Law, Alain Sham and solicitor Trevor Chan represented Li at court, which attracted media attention as as Li’s family said they did not hire the lawyers. It is also reported that Li has not applied for legal aid or requested for duty lawyer service.
10/8/2020	Agnes CHOW Ting 周庭 (F)	Accused of associating with the “Fight for Freedom, Stand with Hong Kong” group.	Collusion with a foreign country or with external elements	Chow was released on 12 June 2021 after serving a 10-month imprisonment for “illegal assembly” charges over a 2019 demonstration outside the police headquarters.	Chow is the former spokesperson of Scholarism and the co-founder of the now-disbanded student political activism group Demosistō.

<sup>104</sup> Radio Free Asia, “Andy Li detained in isolation at Psychiatric Centre”, 29 March 2021, [www.rfa.org/mandarin/Xinwen/5-03292021130133.html](http://www.rfa.org/mandarin/Xinwen/5-03292021130133.html)

<sup>105</sup> Amnesty International, “China: 12 Hongkongers formally arrested in China” (Index: ASA 17/3213/2020), 13 October 2020, [www.amnesty.org/en/documents/asa17/3213/2020/en/](http://www.amnesty.org/en/documents/asa17/3213/2020/en/)

21/11/2020	WAN Yiu-sing 尹耀昇 (M)	Accused of financially supporting secession activities after he started a programme that supported the living and education expenses of teenagers who had left Hong Kong for Taiwan for fear of prosecution after participating in the 2019 protests.  He was arrested again on 7 February 2021 on sedition charges.	Doing an act with a seditious intention under the Crimes Ordinance instead of the NSL, but involving behaviour endangering national security  Money laundering	Prosecuted on 7 February 2021 for doing an act with a seditious intention, remanded in custody.  Police pressed further money laundering charges against Wan and Alice Lee on 10 May 2021.	Wan is an online radio host, also known as "Giggs" (傑斯).
21/11/2020	TSANG Bik Wan 曾碧雲 (F)	Accused of financially supporting secession activities alongside Wan and Lee, after their programme that supported the living and education expenses of teenagers who had left Hong Kong for Taiwan for fear of prosecution after participating in the 2019 protests.	Providing financial assistance to support secession activities  Money laundering	Arrested, released on police bail	Tsang is the wife of Wan Yiu-sing.
21/11/2020	LEE Po-lai Alice 利寶麗 (F)	Accused of financially supporting secession activities alongside Wan and Tsang, after their programme that supported the living and education expenses of teenagers who had left Hong Kong for Taiwan for fear of prosecution after participating in the 2019 protests.	Providing financial assistance to support secession activities  Money laundering	Police pressed further money laundering charges against Wan and Alice Lee on 10 May 2021. Lee is currently on bail.	Lee is the assistant of Wan Yiu-sing
07/12/2020	Unspecified individual (Student)	Accused of chanting pro-independence slogan and waving flags with pro-independence slogan in a protest in the Chinese University of Hong Kong.	Inciting secession	Arrested, released on police bail	
07/12/2020	Unspecified individual (Student)	Accused of chanting pro-independence slogan and waving flags with pro-independence slogan in a protest in the Chinese University of Hong Kong.	Inciting secession	Arrested, released on police bail	
07/12/2020	Unspecified individual (Student)	Accused of chanting pro-independence slogan and waving flags with pro-independence slogan in a protest in the Chinese University of Hong Kong	Inciting secession	Arrested, released on police bail	
06/01/2021	Clarisse YEUNG Suet-ying 楊雪盈 (F)	Participation in "primary election" in July 2020.	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021, court bail granted on 5 March 2021.  The Department of Justice challenged the appeal on the same day and requested she	Yeung is the Wan Chai District Councillor for Tai Hang and the chairperson of Wan Chai District Council  Yeung took part in the preservation of art installations, photographs and other artworks related to the Umbrella Movement of 2014.

				<p>remain in custody before the appeal decision is finalized.</p> <p>Yeung was released on bail on 5 March 2021 after the Department of Justice withdrew its challenge to the bail granted by the court.</p>	
06/01/2021	<p>Hendrick LUI Chi-heng 呂智恆 (M)</p>	Participation in "primary election" in July 2020.	Charged with conspiracy to commit subversion	<p>Arrested on 6 January 2021, prosecuted on 28 February 2021, court bail granted on 5 March 2021.</p> <p>The Department of Justice challenged the appeal on the same day and requested he remain in custody before the appeal decision is finalized.</p> <p>Lui was released on bail on 5 March 2021 after the Department of Justice withdrew its challenge.</p>	Social worker and member of North District Blueprint
06/01/2021	<p>Lawrence LAU Wai-chung 劉偉聰 (M)</p>	Participation in "primary election" in July 2020.	Charged with conspiracy to commit subversion	<p>Arrested on 6 January 2021, prosecuted on 28 February 2021, court bail granted on 5 March 2021.</p> <p>The Department of Justice challenged the appeal on the same day and requested he remain in custody before the appeal decision is finalized.</p> <p>Lau was released on bail on 5 March 2021 after the Department of Justice withdrew its challenge to the bail granted by the court.</p>	<p>Lau is a barrister and a Sham Shui Po District Councillor for Yau Yat Tsuen.</p> <p>Lau has represented defendants in several high-profile court cases involving political protests, including the 2015 assault case of Ng Lai-ying and the 2018 rioting case of Lo Kin-man.</p>
06/01/2021	<p>Mike LAM King-nam 林景楠 (M)</p>	Participation in "primary election" in July 2020.	Charged with conspiracy to commit subversion	<p>Arrested on 6 January 2021, prosecuted on 28 February 2021, court bail granted on 5 March 2021.</p> <p>The Department of Justice challenged the appeal on the same day and requested he remain in custody before the appeal decision is finalized.</p> <p>Lam was released on bail on 5 March 2021 after the Department of Justice withdrew its challenge.</p>	<p>Lam is an entrepreneur and founder of AbouThai, a retail chain selling Thai products.</p> <p>Hong Kong customs officials seized allegedly mislabeled goods worth HK\$400,000 from AbouThai in April 2021. The seizure raised concerns about selective enforcement of the law, as media reported that other chains were not prosecuted over the same violation.</p>

06/01/2021	Tat-hung CHENG 鄭達鴻  (M)	Participation in "primary election" in July 2020.	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021, court bail granted on 5 March 2021.  The Department of Justice challenged the appeal on the same day and requested he remain in custody before the appeal decision is finalized. The court upheld the decision to grant Cheng bail on 13 March 2021.	Cheng is the former Eastern District Councillor for Tanner (2016- 2021). He resigned in May 2021 due to the ongoing pro-democracy primaries case.
06/01/2021	Kalvin HO Kai-ming 何啟明  (M)	Participation in "primary election" in July 2020.	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and granted court bail on 5 March 2021.	Ho is the former Sham Shui Po District Councillor for Nam Cheong East (2020-2021).
06/01/2021	Helena WONG Pik- wan 黃碧雲  (F)	Participation in "primary election" in July 2020.	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021, court bail granted on 5 March 2021.  The Department of Justice challenged the appeal on the same day and requested she remain in custody before the appeal decision is finalized. The court upheld the decision to grant Wong bail on 11 March 2021.	Wong is a former Legislative Council member. (2016-2021) and a retired lecturer of Hong Kong Polytechnic University, where she taught courses on mainland China and women's issues between 1999 and 2009.
06/01/2021	Michael PANG Cheuk- kei 彭卓棋  (M)	Participation in primary election in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021, and court bail granted on 5 March 2021.  The Department of Justice challenged the appeal on the same day and requested he remain in custody before the appeal decision is finalized. The court upheld the decision to grant Pang bail on 13 March 2021.	Pang is the Southern District Councillor for Stanley and Shek O.
06/01/2021	Fergus LEUNG Fong- wai 梁晃維  (M)	Participation in "primary election" in July 2020.	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 He was denied bail on 5 March 2021.  His bail appeal was rejected on 12 March 2021. He gave up his right to review the bail decision every eight days on 19 March 2021.	Leung is the former Central and Western District Councillor for Kwun Lung (2020-2021).  Leung resigned from his position as district councillor after he was charged under the NSL.

06/01/2021	Tiffany YUEN Ka-wai 袁嘉蔚 (F)	Participation in “primary election” in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021. She was denied bail.  Her bail appeal was rejected on 12 March 2021.  Separately, Yuen was sentenced to four months’ imprisonment for her participation in the banned June Fourth event in Victoria Park in 2020.	Yuen is the former Southern District Councillor for Tin Wan (2020-2021).  She was the vice chairperson of Demosistō before resigning from the party in 2018.  Yuen lost her district council seat in May 2021 after having received a sentence of over three months’ imprisonment. <sup>106</sup>
06/01/2021	Andy CHUI Chi-kin 徐子見 (M)	Participation in “primary election” in July 2020.	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021. He was denied bail on 5 March 2021.  His bail appeal was rejected on 19 March 2021.	Chui is the former Eastern District Councillor for Yue Wan.  Chui resigned from his post at the district council in May 2021, citing his inability to fulfil his duties due to the pro-democracy primaries court case.
06/01/2021	Ted HUI Chi Fung 許智峯 (M)	Participation in “primary election” in July 2020.	Charged with conspiracy to commit subversion	Former lawmaker Ted Hui has been charged with nine offences for actions at a protest in 2019 and during Legislation Council meetings in May 2020. He is currently wanted as he violated bail conditions.  While released on court bail, Hui travelled to Denmark on 30 November 2020 on an “official” visit, purportedly to attend a climate change conference. He subsequently announced that he would not return to Hong Kong and announced his arrival in Australia on 9 March 2021.  Since August 2020, the Hong Kong Shanghai Banking Corporation (HSBC) has frozen the accounts of numerous pro-democracy organizations and activists, and their families, including Jimmy Lai, Ted Hui and the Good Neighbour North District Church.  In January 2021 the CEO of HSBC defended its relationship with Chinese authorities in Hong Kong and freezing of Ted Hui's account	Hui is a former Hong Kong Island Legislative Council member (2016-2020) and the former Central and Western District Councillor for Chung Wan (2012- 2020).

<sup>106</sup> According to Article 19 (d)(i) of the District Council Ordinance, a person is disqualified from holding office as a district councillor if they are sentenced to imprisonment for a term exceeding three months without the option of a fine.

				to the United Kingdom's parliamentary foreign affairs committee.  In February 2021 more than 50 members of the Inter-Parliamentary Alliance on China called for the immediate unfreezing of funds belonging to Ted Hui and his family.	
06/01/2021	Jimmy SHAM Tsz-kit 岑子杰  (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021. He was denied bail on 5 March 2021.  His bail appeal was rejected on 12 March and again on 12 April 2021.	Sham is the Sha Tin District Councillor for Lek Yuen and the vice-chairman of the League of Social Democrats.  Sham is activist for various Hong Kong political causes and LGBTI rights. He served as convener of pro-democracy organization Civil Human Rights Front (CHRF) in 2015- 2016 and 2018- 2020.  Numerous mass protests were organized by CHRF during Sham's term as convener, including the largest protest in Hong Kong history on 16 June 2019.
06/01/2021	Claudia MO Man-ching 毛孟靜  (F)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021. She was denied bail on 5 March 2021 and again on 14 April 2021.	Mo is a former Legislative Council member (2012- 2020) and a founding member of the Civic Party. She left the Civic Party in November 2016, citing differences with the party on localism and other issues.  Mo resigned from her Legislative Council seat in November 2020 in protest over the unseating of pro-democracy legislators.
06/01/2021	Nathan LAU 劉澤鋒  (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021. He was denied bail on 5 March 2021 and again on 1 June 2021.	Lau is the former president of the Shue Yan University Student Union.
06/01/2021	Alterin Jeffrey ANDREWS 安德里  (M)	Participation in "primary election" in July 2020	Arrested for subversion	Arrested on 6 January 2021.  Currently released on police bail.	Andrews is a social worker of Indian descent.
06/01/2021	Frankie FUNG Tat- chun 馮達浚  (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021. He was denied court bail on 5 March 2021. He withdrew his appeal against the bail decision hearing on 12 March 2021.	Fung is the co-founder of online media DB Channel, which stopped operation in July 2020.

06/01/2021	Sunny CHEUNG Kwan-yang 張崑陽 (M)	Participation in “primary election” in July 2020	Charged with conspiracy to commit subversion	Allegedly wanted for offences under the NSL. Now residing in the United Kingdom. <sup>107</sup>	Cheung is the former spokesperson for the Hong Kong Higher Institutions International Affairs Delegation.
06/01/2021	Jeremy TAM Man Ho 譚文豪 (M)	Participation in “primary election” in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and granted court bail on 5 March 2021.  The Department of Justice challenged the appeal on the same day and requested he remain in custody before the appeal decision is finalized. His bail was revoked on 13 March 2021 upon appeal.	Tam is a pilot-turned-politician. He is a former Legislative Council member (2016-2020)  He resigned from his Legislative Council seat in November 2020 in protest over the unseating of pro-democracy legislators.
06/01/2021	WU Chi-wai 胡志偉 (M)	Participation in “primary election” in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021. He withdrew his appeal against the bail decision at a hearing on 12 March 2021.  Wu has also been charged with illegal assembly offences, and his bail was suspended by the court on 8 January 2021 for failing to hand over all travel documents.  Wu’s father passed away in April 2021. Wu’s application to attend his father’s funeral was initially rejected by the Correctional Services Department on security grounds, but it was later granted by the court with certain conditions attached.	Wu is a former Legislative Council member who resigned from his Legislative Council seat in November 2020 in protest over the unseating of pro-democracy legislators.
06/01/2021	SZE Tak-loy 施德來 (M)	Participation in “primary election” in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and granted court bail on 5 March 2021.  The Department of Justice challenged the appeal on the same day and requested he remain in custody before the appeal decision	Tsz is the Wong Tai Sin District Councillor for Tung Mei.

<sup>107</sup> Liberty Times, “Sunny Cheung confirms his exile with emotional long piece”, 15 September 2020, [news.ltn.com.tw/news/world/breakingnews/3292942](https://news.ltn.com.tw/news/world/breakingnews/3292942)

				is finalized. The court upheld the decision of granting Sze bail on 15 March 2021.	
06/01/2021	Kinda LI Ka-tat 李嘉達 (M)	Participation in “primary election” in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021. He was denied bail on 5 March 2021.	Li is the former Kwun Tong District Councillor for Hip Hong.  In a bid to apply for a review of his bail application, Li resigned from his position as district councillor in April 2021.
06/01/2021	Joshua WONG Chi-fung 黃之鋒 (M)	Participation in “primary election” in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021.  Wong is currently imprisoned for two protests in 2019 and due to be released in November 2021. He was sentenced to a further 10 months’ imprisonment in May 2021, which is to run following his current sentence.	Wong is recognized locally and internationally for his student activism in Hong Kong. He is the former secretary-general of Demosistō and the former convener of Scholarism.  Wong played an active role in the Umbrella Movement in 2014, initially with a class boycott among students.
06/01/2021	TAM Tak-chi 譚得志 (M)	On 24 May 2020, Tam was arrested for participating in an “unlawful” assembly protesting the proposed NSL.  On 17 July 2020, Tam was again arrested, this time on charges of incitement to participate in unlawful assembly, seditious intention and disorder in public places.  On 6 September 2020, Tam was arrested again. He was accused of “inciting hatred and contempt against the government” while speaking at street booths in June and August 2020.  In January 2021, he was arrested and prosecuted for his participation in the primary election in July 2020.	Charged with conspiracy to subversion	On 21 October 2020, Tam asked the court to dismiss the sedition charges against him, alleging that the colonial-era charges violated the Basic Law.  He was prosecuted on 28 February 2021 and has been remanded in custody since September 2020.	Tam was a radio host on Commercial Radio Hong Kong and Metro Radio under the stage name “Fast Beat”. Tam co-founded Power Voters, which later became part of the People Power, a political party in Hong Kong.
06/01/2021	Carol NG Man-yee 吳敏兒 (F)	Participation in “primary election” in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021. Her bail decision appeal was rejected on 12 March 2021. She withdrew her bail application on 31 May 2021.	Ng is the first female chairperson of the Hong Kong Confederation of Trade Unions and organized a general strike against the proposed extradition bill in 2019.

06/01/2021	Prince WONG Chi Yuet 黃子悅 (F)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021. Her bail decision appeal was rejected on 12 March 2021.	Wong is a student activist. She called for the investigation into sexual harassment of protesters by police officers in the 2019 protests.
06/01/2021	Sam CHEUNG Ho Sun 張可森 (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and granted court bail on 5 March 2021. The Department of Justice challenged the appeal on the same day and requested he remain in custody before the appeal decision is finalized. The court revoked his bail on 15 March 2021.	Cheung was the Tuen Mun District Councillor for San Hui (2020-2021). He resigned after the court rejected his bail application.  His wife was pregnant when he was remanded into custody in March 2021.
06/01/2021	Eddie CHU Hoi-dick 朱凱迪 (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021. He withdrew his appeal against the bail decision at a hearing on 12 March 2021.	An environmental activist, Chu has been prominently involved in conservation movements in Hong Kong.  He resigned from the Legislative Council in September 2020, stating that he would not serve in "an appointed legislature that breached the Basic Law".
06/01/2021	KWOK Ka-ki 郭家麒 (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and granted court bail on 5 March 2021.  The Department of Justice challenged the appeal on the same day and requested he remain in custody before the appeal decision is finalized. He was denied bail on 13 March 2021 upon appeal.	Kwok is a licensed medical practitioner and a former Legislative Council member.  He was disqualified from running in the 2020 Legislative Council election alongside three other pro-democracy candidates. This resulted in a mass resignation of the remaining pro-democracy lawmakers.
06/01/2021	Andrew WAN Siu-kin 尹兆堅 (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021. He withdrew his appeal against the bail decision at a hearing on 12 March 2021.	Wan is a social worker and politician.  He resigned from his Legislative Council seat in November 2020 in protest over the unseating of pro-democracy legislators. He also resigned from his post as a district councillor in May 2021, citing his inability to fulfil his duties due to the pro-democracy primaries court case.
06/01/2021	NG Kin-wai 伍健偉 (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and granted court bail on 5 March 2021.  The Department of Justice challenged the appeal on the same day and requested he	Ng is a former North District Councillor for Yuen Long Kingswood (2020-2021).

				<p>remain in custody before the appeal decision is finalized.</p> <p>His bail was rejected on 11 March 2021.</p>	
06/01/2021	<p>Roy TAM Hoi Pong 譚凱邦 (M)</p>	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	<p>Arrested on 6 January, prosecuted on 28 February 2021 and denied bail on 5 March 2021.</p> <p>He was denied bail again on 2 June 2021.</p>	Tam is an environmental activist who was elected and re-elected as district councillor in 2012 and 2019 respectively. Tam quit the Neo-democrats and resigned as district councillor in April 2021.
06/01/2021	<p>Alvin YEUNG Ngok-kiu 楊岳橋 (M)</p>	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	<p>Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021. He withdrew his appeal against the bail decision at a hearing on 12 March 2021.</p>	<p>Yeung is a barrister, former Legislative Council member (2016-2020) and leader of the Civic Party (2016-2020).</p> <p>He was disqualified from running in the 2020 Legislative Council election alongside three other pro-democracy candidates. This resulted in a mass resignation of the remaining pro-democracy lawmakers.</p>
06/01/2021	<p>LEUNG Kwok-hung 梁國雄 (M)</p>	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	<p>Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied bail on 5 March 2021. His bail appeal was rejected on 12 March 2021.</p> <p>He is currently in jail for organizing and participating in "unauthorized" assemblies in August 2019.</p>	Leung is a former Legislative Council member (2004-2016) and chairman of the League of Social Democrats (2012-2016), as well as a founder of April Fifth Action.
06/01/2021	<p>Raymond CHAN Chi-chuen 陳志全 (M)</p>	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	<p>Arrested on 6 January 2021, prosecuted on 28 February 2021, and denied bail on 5 March 2021.</p>	<p>Chan is a LGBTI activist and former radio host. He is a former Legislative Council member (2012-2020) and former chairman of People Power (2016-2021). He is the first openly gay lawmaker in Hong Kong.</p> <p>In May 2021, Chan announced through a brief statement that he was quitting People Power and withdrawing from politics.</p>
06/01/2021	<p>LAM Cheuk-ting 林卓廷 (M)</p>	Participation in "primary election" in July 2020	<p>Charged with conspiracy to commit subversion</p> <p>Rioting</p>	<p>Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021. He withdrew his appeal against the bail decision at a hearing on 12 March 2021.</p>	<p>Lam is a former Legislative Council member (2016-2020), Northern District Councillor for Shek Wu Hui (2016-2021) and deputy chairperson of the Democratic Party.</p> <p>Lam resigned from the Legislative Council in November 2020 to protest the unseating of pro-democracy legislators. He also resigned from his post as district</p>

					councillor in March 2021, citing his inability to fulfil his duties due to the pro-democracy primaries.  Lam was arrested on 26 August 2020 on charges of rioting after he was attacked in the Yuen Long station attack on 21 July 2019.
06/01/2021	Gwyneth HO Kwai-lam 何桂藍  (F)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021.  She withdrew her appeal against the bail decision at a hearing on 12 March 2021.	Ho is a former journalist for Stand News.  She was attacked while reporting on the Yuen Long attack on 21 July 2020.
06/01/2021	Owen CHOW Ka Shing 鄒家成  (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021.  He withdrew his appeal against the bail decision at a hearing on 12 March 2021.  He was arrested again in February 2021 for rioting. He was accused of taking part in the break in of the Legislative Council on 1 July 2019.	Chow is a nursing student of the Open University of Hong Kong.  He has been involved in following up on the case of the 12 Hongkongers arrested by the Chinese coast guard in August 2020.
06/01/2021	Ricky OR Yiu-lam 柯耀林  (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and granted court bail on 5 March 2021. The Department of Justice challenged the appeal on the same day and requested he remain in custody before the appeal decision is finalized. The court upheld the decision to grant Or bail on 13 March 2021.	Or is a Sai Kung District Councillor for Kwong Ming and a former Frontier and Democratic Party member.
06/01/2021	Gary FAN Kwok-wai 范國威  (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied bail on 5 March 2021.  Fan was denied bail again on 1 June 2021.	Fan is a former Legislative Council member and Sai Kung District Councillor for Wan Hang (2000-2021). He resigned from his position at the district council in March 2021.
06/01/2021	LEE Chi-yung 李芝融  (M)	Participation in "primary election" in July 2020	Arrested for subversion	Arrested on 6 January, currently released on bail.	Lee is an activist for grassroots livelihood and rights of persons with disabilities.

					He is the former chairperson of the Association of Parents of the Severely Mentally Handicapped.
06/01/2021	Ventus LAU 劉穎匡 (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion  Charged with rioting and inciting others to participate in an unauthorized assembly	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021.  Lau has been charged with rioting for his role in the break in at the Legislative Council in the 1 July 2019 protest. He has also been charged with inciting others to participate in an unauthorized assembly in 2019.	Lau is a former student activist at the Chinese University of Hong Kong.  He is a former member of the Civil Assembly Team, which organized numerous protests throughout 2019. The team was disestablished on 4 March 2021.
06/01/2021	James TO Kun-sun 涂謹申 (M)	Participation in "primary election" in July 2020	Arrested for subversion	Arrested on 6 January 2021, currently released on bail.	To is a solicitor and former Legislative Council member (1991-2020).  He is a Yau Tsim Mong District Councillor for Olympic and a member of the Democratic Party.  He resigned from his Legislative Council seat in November 2020 in protest over the unseating of pro-democracy legislators.
06/01/2021	LEE Yue-shun 李予信 (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and granted court bail on 5 March 2021. The Department of Justice challenged the appeal on the same day and requested that he remain in custody before the appeal decision is finalized. The court upheld the decision to grant Lee bail on 15 March 2021.	Lee is the Eastern District Councillor for Kam Ping, a former Civic Party member, a member of Ignite Our Community and a registered social worker.  Lee campaigned for the Civic Party during the 2016 Legislative Council election but left the Civic Party in March 2021.
06/01/2021	Lester SHUM 岑敖暉 (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021. His bail application was rejected on 12 March 2021. He reserved his right to have his bail decision reviewed every eight days.  Separately, Shun was sentenced to a six-month imprisonment for his participation in the June Fourth event in Victoria Park in	Shum is the former Tsuen Wan District Councillor for Hoi Bun (2020-2021).  He is the former deputy secretary general of the Hong Kong Federation of Students between 2014 and 2015 and helped mobilize student protests against the 31 August 2014 decision by the National People's Congress Standing Committee concerning the electoral method of the Hong Kong SAR Chief Executive.

				2020, which did not receive consent from the police.	Shum was a visible presence during the subsequent student movement that later developed into the Umbrella Movement.  He later became an assistant to lawmaker Eddie Chu and was elected as a district councillor in 2019. He resigned in May 2021 over the pro-democracy primaries case.
06/01/2021	Roy KWONG Chun Yu 鄭俊宇  (M)	Participation in "primary election" in July 2020	Arrested for subversion and succession	Arrested on 6 January 2021.	Kwong is a social worker and writer and a former Legislative Council member of the functional constituency of Direct Council (Second) (2016-2020)  He is also a Yuen Long District Councillor for Pek Long.  He resigned from his Legislative Council seat in November 2020 in protest over the unseating of pro-democracy legislators.
06/01/2021	LAU Hoi Man 劉凱文  (M)	Participation in "primary election" in July 2020	Arrested for subversion	Arrested on 6 January 2021.	Lau is the director of the Hong Kong Allied Health Professionals and Nurses Association.
06/01/2021	Joseph LEE Kok-long 李國麟  (M)	Participation in "primary election" in July 2020	Arrested for subversion	Arrested on 6 January 2021.	Lee is a former Legislative Council member of the functional constituency of Health Services (2004-2020).
06/01/2021	Ricky YUEN Wai-kit 袁偉傑  (M)	Participation in "primary election" in July 2020	Arrested for subversion	Arrested on 6 January 2021.	Yuen is the former principal of Union Hospital's School of Nursing.
06/01/2021	Winnie YU Wai Ming 余慧明  (F)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021. Her bail decision appeal was rejected on 12 March 2021.  She was denied bail again on 1 June 2021.	Yu is an activist, founder and chairwoman of the Hospital Authority Employees Alliance, a labour union representing Hospital Authority staff. The organization staged a medical sector strike in 2020 urging the Hong Kong government to shut its border with mainland China in light of the coronavirus epidemic and provide adequate personal protective equipment for frontline medical workers in Hong Kong.
06/01/2021	Benny TAI Yiu-ting 戴耀廷	Initiated the "primary election" in July 2020.  Published the "Laam Chau 10 steps" article, in which he detailed his assessment of the	Charged with conspiracy to commit subversion	Arrested on 6 January 2021 and prosecuted on 28 February 2021.	Tai is a Hong Kong democracy activist and legal scholar who specializes in constitutional and public law.

	(M)	development of the democracy movement in Hong Kong.		He is currently imprisoned for illegal assembly charges related to the Umbrella Movement in 2014.	He is a co-organizer of the Occupy Central with Love and Peace (2014) and ThunderGo (2016) campaigns. In July 2020, Tai was removed from his tenured position at the University of Hong Kong following his criminal conviction related to civil disobedience.
06/01/2021	Andrew CHIU Ka-yin 趙家賢 (M)	Accused of planning and organizing the democratic camp "primary elections"	Charged with conspiracy to commit subversion	Arrested on 6 January 2021 and prosecuted on 28 February 2021.	Chiu is the Eastern District Councillor for Tai Koo Shing West, member of the Democratic Party and convener of Power for Democracy, which was disestablished in late February 2021.  His left ear was partially bitten off by an attacker in November 2019.
06/01/2021	John Joseph CLANCEY 關尚義 (M)	Accused of planning and organizing the democratic camp "primary elections"	Arrested for secession and subversion	Arrested on 6 January 2021	Clancey is a US-born human rights lawyer in Hong Kong and former treasurer of Power for Democracy, which was disestablished in late February 2021.
06/01/2021	Ben CHUNG Kam-lun 鍾錦麟 (M)	Accused of planning and organizing the democratic camp "primary elections"	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021.  He was denied bail again on 1 June 2021.	Chung is a former Sai Kung District Councillor for Yan Ying (2012-2021) and former chairperson of Sai Kung District Council (2020-2021)  He is a former Democratic Party and Neo-Democrat member.  Chung resigned from his post at the district council in May 2021, citing his inability to fulfil his duties due to the pro-democracy primaries court case.
06/01/2021	AU Nok-hin 區諾軒 (M)	Accused of planning and organizing the democratic camp "primary elections"	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021. He withdrew his appeal against the bail decision at a hearing on 12 March 2021 and gave up his right to have his bail decision reviewed every eight days.  He is currently imprisoned for assaulting a police officer and organizing and participating in "unauthorized" assemblies during the 2019 Hong Kong protests.	Au is a former Legislative Council member (2018-2019), Southern District Councillor for Lei Tung I (2012-2019) and convener of the Civil Human Rights Front (2016-2017).  He is a PhD student at University of Tokyo.

06/01/2021	Gordon NG Ching-hang 吳政亨 (M)	Accused of planning and organizing the democratic camp "primary elections"	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021. His bail appeal was rejected on 12 March. He was denied bail again on 1 June 2021.	Ng was a volunteer for the ThunderGo campaign in 2016.
06/01/2021	Henry WONG Pak-yu 王百羽 (M)	Participation in "primary election" in July 2020	Charged with conspiracy to commit subversion	Arrested on 6 January 2021, prosecuted on 28 February 2021 and denied court bail on 5 March 2021. His bail application was rejected on 12 March 2021, and he gave up his right to have his bail decision reviewed every eight days.  He was denied bail again on 1 June 2021.  Wong was arrested for allegedly running a fraud conspiracy in relation to campaign expenses near HK\$5 million for the 2019 District Council election, as well as for possession of replica rifles and ammunition found at his home in 2020.	He is the former Yuen Long District Councillor for Tin Heng (2020-2021) and spokesperson of Tin Shui Wai New Force, a community group.  Wong resigned from his post at the district council in May 2021.
15/02/2021	Chan Tsz-wah 陳梓華 (M)	Accused of assisting or colluding with others (Jimmy Lai) in respect of requesting foreign countries or forces to enforce an embargo, blockade or hostile action against Hong Kong or the People's Republic of China, as well as of assisting in the the flight of Andy Li (see above).	Conspiring to collude with foreign and external forces to endanger national security  Conspiracy to assist offender	Charged alongside Jimmy Lai with conspiring to collude with foreign forces on 17 February 2021.	Chan is a paralegal.
18/02/2021	Cheng Ding-fund 鄭鼎楓 (M)	Accused of participating in a peaceful protest at a graduation ceremony at the Chinese University of Hong Kong in 2020.	Incitement to secession  Joining unauthorized assembly	Unknown	
08/04/2021	Lui Sai-yu 呂世瑜 (M)	Accused of incitement to secession, along with charges of dealing in arms or ammunition without a licence and possession of an offensive weapon.	Incitement to secession  Dealing in arms or ammunition without a licence  Possession of offensive weapon.	Arrested on 24 September 2020 and prosecuted on 25 September 2020 for dealing in arms or ammunition without a licence and possession of an offensive weapon.	Lui is an engineering student at the Hong Kong Polytechnic University.

				Police pressed a further charge of incitement to secession against Lui on 8 April 2021, and he remains remanded in custody.	
30/04/2021	Unspecified (M)	Accused of incitement to secession, along with charges of dealing in arms or ammunition without a licence and possession of an offensive weapon.	Incitement to secession  Dealing in arms or ammunition without a licence  Possession of offensive weapon.	Arrested on 30 April 2021.	
06/05/2021	Unidentified student (M)	Reportedly accused of leaving comments on social media that “endangered national security”.  The arrest was triggered by a burglary on a school in Tseung Kwan O, believed to have been committed by members of the student group “Returning Valiant”. <sup>108</sup>	Secession and subversion	Arrested with ongoing investigation by the national security department.	He is reportedly a member of the student group “Returning Valiant”.
06/05/2021	Unidentified student (M)	Reportedly accused of leaving comments on social media that violated the NSL.  The arrest was triggered by a burglary on a school in Tseung Kwan O, believed to have been committed by members of the student group “Returning Valiant”.	Secession and subversion	Arrested with ongoing investigation by the national security department	He is reportedly a member of the student group “Returning Valiant”.
06/05/2021	Unidentified student (M)	Reportedly accused of leaving comments on social media that violated the NSL.  The arrest was triggered by a burglary on a school in Tseung Kwan O, believed to have been committed by members belonging to the student group “Returning Valiant”.	Secession and subversion	Arrested with ongoing investigation by the national security department	He is reportedly a member of the student group “Returning Valiant”
06/05/2021	Unidentified student (F)	Reportedly accused of leaving comments on social media that violated the NSL.  The arrest was triggered by a burglary on a school in Tseung Kwan O, believed to have been committed by	Secession and subversion	Arrested with ongoing investigation by the national security department	She is reportedly a member of the student group “Returning Valiant”

<sup>108</sup> On.cc, “Alleged burglary and possession of Hong Kong independence materials, five Returning Valiant members arrested for subversion” (「光城者」爆竊兼藏港獨物品 5人涉顛覆國家政權罪被捕), 6 May 2021, [hk.on.cc/hk/bkn/cnt/news/20210506/bkn-20210506111207874-0506\\_00822\\_001.html](https://www.on.cc/hk/bkn/cnt/news/20210506/bkn-20210506111207874-0506_00822_001.html)

		members belonging to the student group “Returning Valiant”.			
17/06/2021	CHEUNG Kim-hung 張劍雄 (M)	Apple Daily is accused of colluding with foreign forces by publishing approximately 30 articles, some before the enactment of the NSL, calling for foreign governments to impose sanctions on Hong Kong government officials.	Collusion with a foreign country or with external elements to endanger national security	Formally charged on 18 June 2021. He was denied bail and remanded in custody on 19 June 2021.	Chief executive officer of Apple Daily
17/06/2021	Ryan Law Wai-kwong 羅偉光 (M)	Apple Daily is accused of colluding with foreign forces by publishing approximately 30 articles, some before the enactment of the NSL, calling for foreign governments to impose sanctions on Hong Kong government officials.	Collusion with a foreign country or with external elements to endanger national security	Formally charged on 18 June 2021. He was denied bail and remanded in custody on 19 June 2021.	Chief editor at Apple Daily
17/06/2021	Chan Pui-man 陳沛敏 (F)	Apple Daily is accused of colluding with foreign forces by publishing approximately 30 articles, some before the enactment of the NSL, calling for foreign governments to impose sanctions on Hong Kong government officials.	Collusion with a foreign country or with external elements to endanger national security	Arrested and released on police bail on 19 June 2021.	Associate publisher of Apple Daily
17/06/2021	CHEUNG Chi-wai 張志偉 (M)	Apple Daily is accused of colluding with foreign forces by publishing approximately 30 articles, some before the enactment of the NSL, calling for foreign governments to impose sanctions on Hong Kong government officials.	Collusion with a foreign country or with external elements to endanger national security	Arrested and released on police bail on 19 June 2021	Platform director of Apple Daily Digital
23/06/2021	YEUNG Ching-kee 楊清奇 (M)	Accused of conspiracy to collusion with foreign forces by writing commentaries for Apple Daily.	Conspiracy to collusion with foreign forces	Arrested and remanded in custody	Yeung, who goes by the pen name Li Ping (李平), was an editorial writer for Apple Daily.

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