URGENT ACTION

64 PERSONS CHARGED RELATED TO NATIONAL SECURITY LAW

According to the Hong Kong Police, 118 people have been arrested related to the National Security Law (NSL) since its enactment on 30 June 2020, and 64 have been formally charged. Some may face life imprisonment if found guilty. The vaguely worded law criminalizes a broad range of acts and lacks effective human rights safeguards. These ongoing arrests and prosecutions have curtailed the freedoms of peaceful assembly, expression and association in Hong Kong in an unprecedented speed and scale.

TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

Secretary for Justice Teresa Cheng Yeuk-wah  
Department of Justice  
G/F, Main Wing, Justice Place  
18 Lower Albert Road, Central, Hong Kong  
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Email: sjo@doj.gov.hk

Dear Secretary Cheng:

I am writing to express my concern about the 64 individuals charged so far in relation to the National Security Law since its enactment on 30 June 2020. It is alarming to learn that many of them have been prosecuted simply for peacefully chanting slogans in protests, publishing commentaries on the internet or in newspapers, or taking part in peaceful political advocacy work. These acts are mere peaceful expressions of opinion, and even if critical of the government are permissible under international human rights law and standards and must not be criminalized.

It is further distressing that Jimmy Sham Tsz-kit (岑子杰), Gwyneth Ho Kwai-lam (何桂藍) and Leung Kwok-hung (梁國雄), along with 32 other political opposition figures who had been involved in “primaries” in July 2020 organized by the opposition camp for the Legislative Council election, have been held in pretrial detention for four months. In their pretrial hearings, the prosecution cited evidence, such as interviews with international media and correspondence with foreign diplomats, as proof that the defendants are likely to “continue acts that endanger national security”.

According to internationally recognized human rights standards, “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.

I therefore call on you to:

- Drop all charges against and release those who are prosecuted solely for peacefully exercising their rights, unless there is sufficient credible and admissible evidence that they have committed an internationally recognized offence and are granted a fair trial in line with international standards;
- End the practice of bringing criminal charges against those who have simply exercised their right to freedom of expression or other human rights;
- Review and amend all laws and regulations, and end all related measures, that violate the exercise of human rights, in particular to freedom of expression, peaceful assembly and association, and ensure that any legal provisions aimed at protecting national security or in the name of counterterrorism are clearly and narrowly defined and conform to international human rights law and standards;

Yours sincerely,
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. 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 human rights to freedom of expression, peaceful assembly and association, among others, and to repress dissent and political opposition. 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 of threatening national security, the authorities have sought to justify censorship, harassment, arrests and prosecutions that violate human rights.

Hong Kong’s Legislative Council election was scheduled to be held in September 2020, but the Hong Kong government announced in July 2020 that the election would be postponed for at least a year because of the Covid-19 pandemic.

Jimmy Sham Tsz-kit, Gwyneth Ho Kwai-lam and Leung Kwok-hung were arrested on 6 and 7 January 2021, together with 52 others. 47 of them were charged on 28 February 2021 with “conspiracy to commit subversion” for their roles in the self-organized “primaries” undertaken by the opposition camp in July 2020 prior to Hong Kong’s Legislative Council election.

Jimmy SHAM Tsz-kit is a long-term activist for various political causes and LGBTI rights. During the Hong Kong protests in 2019, Jimmy was the convenor of the Civil Human Rights Front, the organizer of some of the largest peaceful protests in Hong Kong since 2003, including three mass peaceful protests on 9 June, 16 June and 18 August, each attracting an estimated 1–2 million participants.

Gwyneth HO Kwai-lam is a journalist-turned-activist who worked for local independent online media StandNews and the BBC. On 21 July 2019, she was doing live reporting of an attack by a group of people in a metro station against passengers, including those returning from a protest site, and she was beaten and chased by the group.

LEUNG Kwok-hung, also known as “Long Hair”, is a former Legislative Council member and the former Chairman of the political party League of Social Democrats. In the past 40 years, Long Hair has been advocating labour rights and political causes through action-based activism.

Between 1 July and 30 June 2021, police arrested or ordered the arrest of at least 118 people related to the NSL. At least three individuals were under 18 at the time of arrest. As of 30 June 2021, 64 people have been formally charged.

Article 42 of the NSL stipulates that individuals suspected of violating the NSL are to be denied bail unless there are sufficient grounds for believing that they “will not continue to commit acts endangering national security”. The burden of establishing these grounds is placed on the suspect, rather than the state. 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.

PREFERRED LANGUAGE TO ADDRESS TARGET: English and Chinese
You can also write in your own language.

PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL: 30 August 2021
Please check with the Amnesty office in your country if you wish to send appeals after the deadline.

NAME AND PRONOUN: Jimmy Sham Tsz-kit (M), Gwyneth Ho Kwai-lam (F) and Leung Kwok-hung (M)