

# URGENT ACTION

## 10 HONGKONGERS CHARGED, NO ACCESS TO OWN LAWYERS

Ten of the 12 Hongkongers arrested by the Chinese coast guard in August 2020 were formally charged on 16 December. Two have been charged with allegedly organizing people to cross the border between Hong Kong and China and the other eight for allegedly crossing the border, charges that hold a maximum of seven and one year imprisonment, respectively. The procuratorate will hold a closed-door hearing to decide whether to prosecute the other two, who were children at the time of their detention. Detained since 23 August 2020 without access to their families and family-appointed lawyers, the 12 individuals remain at imminent risk of torture and other ill-treatment.

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

**Director Fang Hongsheng**

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Dear Director Fang:

I am writing to express my grave concern for **12 Hongkongers** who have been detained in China since 23 August 2020. With two facing formal charges of “organizing other persons to secretly cross the border”

(境(边)组织他人偷越国) and eight for “secretly crossing the border” (境(边)偷越国), I find it extremely distressing that the Yantian District Detention Centre have not allowed any of the family-hired lawyers to meet with the 12 individuals.

Meeting lawyers of one's own choosing is an integral part of right to a fair trial and a fundamental safeguard for the prevention of torture and other ill-treatment. Denying these 12 individuals access to legal representation of their own choice and to family members is in contravention of international human rights, including the Convention on the Rights of the Child and the Basic Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, as well as China's Criminal Procedure Law.

It is alarming to further learn that the authorities have not allowed the 12 detained individuals to directly communicate with their family or family-appointed lawyers.

Although seven of them allegedly sent letters to their family in Hong Kong, their family have raised doubts about whether the letters were written voluntarily, as the tone and language of the letters are different from those normally used by the seven detained individuals. This is worrying, as I know of other cases in the past where dissidents in China have been coerced by the authorities to tell their families that they are in good care and ask that they stop advocating on their behalf.

In addition, according to the information relayed by the government-appointed lawyers, the detention centre has so far refused to pass the individuals any letters written by their relatives. No one has yet been able to confirm that the 12 individuals are in good health, and I fear that they are at imminent risk of unfair trials and even torture and other ill-treatment.

#### **I call on you to immediately:**

- **Ensure that the 12 individuals have regular and effective access to family and family-appointed lawyers without delay;**
- **Ensure that the 12 individuals are not subjected to torture and other ill-treatment;**
- **Allow the 12 individuals prompt, regular and unrestricted access to medical care on request or as necessary.**

Yours sincerely,

## ADDITIONAL INFORMATION

**CHENG Tsz-ho (鄭子豪), CHEUNG Chun-fu (張俊富), LIU Tsz-man (廖子文), QUINN Moon (喬映瑜), TANG Kai-yin (鄧榮然), LI Tsz-yin (李子賢), LI Yu-hin (李宇軒), WONG Wai-yin (黃偉然)** and four other individuals were intercepted by coast guard officers from mainland China after leaving Hong Kong on a speedboat on 23 August 2020.

On 16 December, two among the 12 were formally charged for “organizing other persons to secretly cross the border” (组织他人偷越国(边)境), facing up to 10 years’ imprisonment, while eight others face up to one year imprisonment for “secretly crossing the border” (偷越国(边)境). The Shenzhen Yantian District Procuratorate will also hold a closed-door hearing to decide whether to charge the remaining two detained individuals, who were both under 18 when arrested, while they remain in custodial detention.

Before being arrested and detained in mainland China for “secretly crossing the border”, 11 of the 12 individuals were arrested in Hong Kong for a range of alleged offences, including conspiring to wound with intent, rioting, assaulting a police officer, conspiring to commit arson, possessing a substance with intent to destroy or damage property, making an explosive substance, committing arson with intent and conspiring to commit arson with intent.

According to the information disclosed by some family members in a press conference held on 12 December 2020, the Chinese public security officers asked many questions about the protests in Hong Kong in 2019 when interrogating the 12, even though they were charged with offences related to border-crossing. The Chinese authorities have no jurisdiction to investigate cases in which the 12 are involved in Hong Kong.

In the same press conference, the families reiterated their calls, requesting that the detained individuals be represented by family-appointed lawyers instead of government-appointed lawyers. The family members also urged the Chinese authorities to allow the 12 to directly communicate with family and the lawyers they appointed. They also demanded the authorities to inform family members of the date(s) of the trials and ensure that they can attend these trials. In China, it is not uncommon for family members of detained dissidents to be prevented from attending trials. Some of them are only informed of the trial, and sometimes even the verdicts, well after the fact.

Amnesty International has documented numerous cases in which detained individuals in mainland China, many of them human rights defenders, have been routinely deprived of their right to see lawyers that they or their families have chosen to represent them. In some instances, the authorities have [appointed](#) lawyers for detainees without their consent or consent of the family. In other cases, the authorities [threatened](#) lawyers to drop cases, claimed that detainees [dismissed](#) family-hired lawyers without producing any proof or [stopped](#) families from hiring lawyers – all of which effectively amounts to depriving the detainees’ of their right to legal representation. Individuals deprived of legal representation of their own choice are often denied access to information about their legal rights, making them more vulnerable to unfair legal procedures.

One of the 12 detainees, LI Yu-hin, reportedly left Hong Kong to seek asylum after he was arrested for “possessing ammunition without a license” and “colluding with foreign or external elements to endanger national security”. LI is among the 35 activists and protesters arrested for violating the Hong Kong national security law so far since its enactment on 30 June 2020. The United Nations human rights [office](#) and [expert bodies](#) have repeatedly expressed concerns about the national security law, stating the broadly worded legislation can lead to “discriminatory or arbitrary interpretation and enforcement which could undermine human rights protection”.

**PREFERRED LANGUAGE TO ADDRESS TARGET:** English or Chinese

You can also write in your own language.

**PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL:** 18 February 2021

Please check with the Amnesty office in your country if you wish to send appeals after the deadline

**NAME AND PRONOUN:** CHENG Tsz-ho (鄭子豪) (he/him), CHEUNG Chun-fu (張俊富) (he/him), LIU Tsz-man (廖子文) (he/him), QUINN Moon (喬映瑜) (she/her), TANG Kai-yin (鄧榮然) (he/him), LI Tsz-yin (李子賢) (he/him), LI Yu-hin (李宇軒) (he/him), WONG Wai-yin (黃偉然) (he/him)

**LINK TO PREVIOUS UA:** <https://www.amnesty.org/en/documents/asa17/3213/2020/en/>