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BRIEFING PAPER:

HONG KONG HUMAN RIGHTS UPDATE AS OF JULY 2024

In light of the Hong Kong authorities' continual use of national security as a pretext to violate human rights, this briefing paper sets out Amnesty International's primary advocacy calls. It also provides the most updated information, based on our research and credible secondary sources, to underpin those calls, including arrest and prosecution figures, trial updates and an in-depth analysis of the effects of the new national security legislation (i.e. Article 23) on both Chinese and non-Chinese individuals, in particular via its extraterritorial application.

OUR CALLS

Hong Kong is legally bound by the International Covenant on Civil and Political Rights (ICCPR) and a number of other human rights treaties. Domestic legislation including its Basic Law, the city's mini-constitution, and Hong Kong Bill of Rights Ordinance also explicitly guarantees the human rights of Hong Kong residents. Although the People's Republic of China has not ratified the ICCPR, it became a signatory to the Convention in 1998 and is therefore obligated to act in good faith to uphold the rights and to not defeat the purposes set out therein.

However, the human rights situation has deteriorated sharply in recent years, especially after the imposition of the National Security Law (NSL) in June 2020. In breach of its international human rights obligations and defying recommendations and requests made by UN experts,¹ the Hong Kong government has heavily restricted and punished the exercise of the rights to freedom of expression, association and peaceful assembly by individuals from a wide cross-section of society.

In light of the most recent developments in Hong Kong, including the passage in March 2024 of new security legislation by the Hong Kong's legislative body (the Safeguarding National Security Ordinance), Amnesty International believes that it is time to reinvigorate advocacy with States on this issue, and calls for urgent and robust action to protect, among others, the right to freedom of expression, association and peaceful assembly, and to show solidarity with those targeted by Hong Kong and mainland Chinese authorities.

The Hong Kong and Chinese governments should, as a priority:

1. Repeal the National Security Law (NSL);
2. Repeal the Safeguarding National Security Ordinance (SNSO, i.e. Article 23 legislation), including the sedition offence;
3. Drop all criminal charges against and release those who have been detained or imprisoned simply for exercising their right to freedom of expression or other human rights, and end the practice of bringing such charges in future;²

¹ For example, the Human Rights Committee has recommended the government to repeal the NSL ([CCPR/C/CHN-HKG/CO/4](#)); the Working Group on Arbitrary Detention has also requested the government to release Chow Hang-tung immediately ([A/HRC/WGAD/2023/30](#)). However, the government refuses to accept these demands.

² Amnesty International, *Hong Kong: Submission to the UN Human Rights Committee 135th Session* (Index: ASA 17/5663/2022), 31 May 2022, <https://www.amnesty.org/en/documents/asa17/5663/2022/en/>, p. 11.

4. Ensure that powers of any law enforcement agencies or officials, including those powers mandated under national security legislation, are consistent with fair trial rights, especially the presumption of innocence, and are subject to full and effective review by an independent and impartial judiciary;
5. Ensure that all authorities in Hong Kong, and in particular the police, abide by their duty to facilitate peaceful assemblies. International human rights law requires that restrictions in the name of protecting public order can only be imposed where they are strictly necessary and proportionate and conform to guarantees of the rights to freedom of expression and peaceful assembly enshrined in Articles 19 and 21 of the ICCPR and Article 27 and 39 of the Basic Law;³
6. Ensure that all allegations of unnecessary or excessive use of force and other abuses of power by police are promptly, thoroughly, independently, and impartially investigated. Those suspected of responsibility should be investigated and, if warranted, prosecuted and punished commensurately with their offence in fair proceedings. Victims should obtain redress. Consider establishing a commission of inquiry in this regard.⁴

All other States should:

1. Use all bilateral, multilateral and regional platforms at their disposal to urge the Chinese and Hong Kong authorities to protect human rights in Hong Kong in accordance with obligations under international human rights law.
2. Engage actively in international human rights mechanisms to hold the Chinese/Hong Kong authorities accountable (e.g. calling for investigations of the range of violations, and an impartial and independent UN mechanism to closely monitor, analyze, and report annually on that topic)
3. Ensure that any trade or investment agreements between your government and the governments of China or Hong Kong contain explicit and effective human rights safeguards requiring the governments to protect human rights in Hong Kong in accordance with international laws and standards.
4. Ensure that multinational corporations under your jurisdiction exercise robust and transparent human rights due diligence when operating in Hong Kong, given the city's precarious human rights situation, and are held accountable for any abuses they commit. This accountability should include liability for harm caused by and within the effective control of these corporations and access to effective remedies in the companies' home states for affected individuals. Governments should initiate or support domestic proposals for corporate accountability legislation. Additionally, governments should provide companies with relevant and up-to-date information on human rights issues in Hong Kong.
5. Ensure all government agencies have a full and effective understanding of transnational repression as a threat to human rights and provide effective remedies. Ensure government policies are implemented coherently and uniformly and educate staff of specific frontline agencies that might encounter survivors of transnational repression or their families.

THE CONTEXT: A CRACKDOWN ON HUMAN RIGHTS HAS BEEN UNDERWAY FOR FIVE YEARS, AND HAS RESULTED IN THE EFFECTIVE CRIMINALIZATION OF ACTIVISM

Since 2019, the human rights situation in Hong Kong has significantly deteriorated, marked by systematic repression against dissent and civil liberties contrary to international human rights laws and standards. With the imposition of the NSL and Article 23 legislation, prominent activists and politicians have been arrested and prosecuted, facing severe penalties for exercising their rights to speak out and peacefully protest. Independent news outlets and civil society groups

³ Amnesty International, *Hong Kong: Submission to the UN Human Rights Committee 135th Session* (Index: ASA 17/5663/2022), 31 May 2022, <https://www.amnesty.org/en/documents/asa17/5663/2022/en/>, p. 11.

⁴ UN Human Rights Committee, Concluding Observations on the Fourth Periodic Report of Hong Kong, China, 11 November 2022, UN Doc. CCPR/C/CHN-HKG/CO/4, para. 20(a).

have been shut down under governmental pressure, which further narrowed civic space and limited platforms for activists.⁵ Such crackdown on human rights has been underway for five years, resulting in the effective criminalization of activism.

Thousands of anti-extradition protesters were charged

In 2019, the Anti-Extradition Movement (also referred to as the Anti-Extradition Law Amendment Bill Movement, or Anti-ELAB Movement) emerged as a series of protests against the Hong Kong government's introduction of a draft extradition law that could have sent defendants to mainland China. The protests, in some cases amounting to up to 2 million people peacefully taking to the streets, later transformed into a pro-democracy movement demanding universal suffrage for election of both the Chief Executive and the Legislative Council.

While several demonstrations were held starting in March of that year after the bill was released, it is generally agreed that the movement started on 12 June 2019. On that day, tens of thousands of overwhelmingly peaceful protesters gathered outside the Legislative Council to oppose the bill.⁶ In response, the police reacted with tear gas and batons and the authorities declared the overall protest that day a "riot". On the following Sunday, 16 June 2019, two million people took to the streets to voice their anger over the government's reaction, which set the record of the largest protest in Hong Kong history. 2024 marks the 5th anniversary of these remarkable, historic protests.

While the vast majority of protesters were peaceful, as time went on sporadic violence broke out, which appears to have been fueled in large part by the use of unnecessary, reckless and excessive force by the police and the persistent impunity with which the Hong Kong Police Force engaged in such behaviour.⁷

According to data obtained by the press from the police,⁸ over the period 9 June 2019 to 31 December 2022, a total of 10,279 people were arrested during the movement for alleged crimes including riots, unlawful assembly, assault, arson, criminal damage, obstructing police officers and possession of offensive weapons. Of those arrested, 1,754 (17%) were under 18 years of age and 4,010 (39%) were students. Among the 10,279 arrested persons, 2,910 people (28.3%) were eventually prosecuted, and of those, at least 1,391 people have been convicted. The police records do not mention what specific offence with which each person was formally charged.

Riot charges were one of the most common offences used to charge the protesters. Independent statistics compiled by the press show that,⁹ as at 5 June 2023, 836 persons had been charged with rioting, of which 504 people had their cases concluded. Among the concluded cases, 438 people (87%) were convicted, and 388 people of those convicted received sentences of imprisonment for four years or more.

The most alarming trend is that Hong Kong courts have adopted a repressive and conservative approach when dealing with public order cases. At least four first-aiders were convicted of riot and sentenced to years of imprisonment, despite the facts that they only possessed medical equipment when arrested and that police found no evidence of violence committed by them.¹⁰ In a written judgment, the Court of Appeal even suggested that a provision of emergency medical

⁵ Amnesty International, *Hong Kong: Submission to the UN Human Rights Committee 135th Session* (Index: ASA 17/5663/2022), 31 May 2022, <https://www.amnesty.org/en/documents/asa17/5663/2022/en/>, pp. 6-7, 9-15, 18-21.

⁶ Amnesty International, "Hong Kong: Police must end excessive force against largely peaceful protest", 12 June 2019, <https://www.amnesty.org/en/latest/news/2019/06/hong-kong-extradition-protest-excessive-force-2/>

⁷ Amnesty International, *Hong Kong: Submission to the UN Human Rights Committee 135th Session* (Index: ASA 17/5663/2022), 31 May 2022, <https://www.amnesty.org/en/documents/asa17/5663/2022/en/>, pp. 13-14; Amnesty International, "Hong Kong: Lack of accountability for police violence could fuel unrest", 5 March 2020, <https://amnesty.org/en/latest/news/2020/03/hong-kong-lack-accountability-police-violence-fuel-unrest>; Amnesty International, *How Not To Police A Protest: Unlawful Use Of Force By Hong Kong Police* (Index: ASA 17/0576/2019), 21 June 2019, <https://www.amnesty.org/en/documents/asa17/0576/2019/en/>

⁸ The Witness, 6.12 四周年 | 暴動案數據分析 58%審結 382 人罪成判囚 近半料 2025 年或之後出獄, 11 June 2023, <https://tinyurl.com/2sb246p3> (in Chinese); Ming Pao, 警：反修例事件至上月 1391 人被定罪, 25 November 2022, <https://news.mingpao.com/ins/%E6%B8%AF%E8%81%9E/article/20221125/s00001/1669389476705> (in Chinese).

⁹ The Witness, 6.12 四周年 | 暴動案數據分析 58%審結 382 人罪成判囚 近半料 2025 年或之後出獄, 11 June 2023, <https://tinyurl.com/2sb246p3> (in Chinese).

¹⁰ They are Chan Cho Ho (sentenced to 4-year imprisonment, see judgment [\[2022\] HKCA 1281](#)), 吳卓泓 (sentenced to 57-month imprisonment, see judgment [\[2023\] HKDC 658](#)), 鍾泯浚 (sentenced to 42-month imprisonment, see judgment [\[2023\] HKDC 382](#)), and Lau Chi Fung (sentenced to 39-month imprisonment, see judgment [\[2023\] HKCA 975](#))

service could be deemed as an act facilitating or encouraging breaches of the peace, and thereby may constitute the crime of riot.¹¹ Two journalists were also convicted of and fined for unlawfully entering or remaining in precincts of the Legislative Council when covering the protests.¹²

On the contrary, despite clear evidence of unnecessary and excessive use of force by the police, as well as other abuses of power,¹³ not a single police officer has been prosecuted or dismissed for using excessive force or other misconduct during the anti-extradition protests. As to the investigation outcomes of complaints against police during the protests, as at 29 December 2022, only 30 allegations were substantiated, and of those, only 2 allegations were followed by warnings while the other 28 were followed by mere verbal advice.¹⁴ The police has refused to disclose updated figures since then.¹⁵

In conclusion, five years on – while many protesters, and even observers or first-aiders, have been punished harshly under a series of legal powers – the police enjoy effective impunity for documented violations of human rights.

National security was used as a pretext to stifle activism

National Security Law

Seeing the 2019 protests as a threat to its authority, the Chinese government bypassed the city's legislature and introduced the draconian National Security Law (NSL) without consulting the Hong Kong people. The NSL came into effect at 11pm on 30 June 2020.¹⁶ 2024 marks the 4th anniversary of the NSL.

With its vague language, stringent threshold for bail and prolonged period of pretrial detention, and system of specially appointed judges, the NSL has been wide open to politically motivated and arbitrary interpretation by the authorities.¹⁷ The concerns voiced about the law have been validated by the implementation of the law so far, which has deterred people from exercising their rights to freedom of expression, association, and peaceful assembly.¹⁸ Most of the civil society groups active on human rights issues in the city have disbanded, and the Hong Kong police maintains an effective blanket prohibition of any forms of peaceful protest that criticises government policies or advocates human rights. Amnesty International has found the NSL incompatible with international human rights laws and standards,¹⁹ a finding which has been echoed by a number of UN human rights mechanisms.²⁰

Article 23

Despite the devastating impact of the NSL, the Hong Kong government went on to expand its legal framework to complement the NSL and further suppress civil society.

¹¹ HKSAR v Chan Cho Ho (香港特別行政區 訴 陳佐豪) [2022] HKCA 1281, https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=146857, para. 18

¹² 香港特別行政區 訴 黃家豪 [2024] HKDC 444, https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=159164, para 32-44

¹³ Amnesty International, "Hong Kong: Arbitrary arrests, brutal beatings and torture in police detention revealed", 19 September 2019, <https://www.amnesty.org/en/latest/news/2019/09/hong-kong-arbitrary-arrests-brutal-beatings-and-torture-in-police-detention-revealed-2/>; Amnesty International, *Hong Kong: Missing Truth, Missing Justice* (Index: ASA 17/1868/2020), 5 March 2020, <https://www.amnesty.org/en/documents/asa17/1868/2020/en/>, pp. 5-7

¹⁴ RTHK, 監警會：本年共有 139 名警員被紀律處分, 29 December 2022, <https://news.rthk.hk/rthk/ch/component/k2/1681800-20221229.htm> (in Chinese)

¹⁵ On.cc, 監警會首 11 個月通過 1253 須匯報投訴 近 5%屬實, 29 December 2022, https://hk.on.cc/hk/bkn/cnt/news/20221229/bkn-20221229160212862-1229_00822_001.html (in Chinese)

¹⁶ Given the short period on 30 June (only 1 hour), it is also acceptable to say that the law came into force on 1 July, the date which marks the city's handover from the UK to China in 1997.

¹⁷ Amnesty International, "Hong Kong: Human rights the antidote to repression as national security law kicks in", 1 July 2020, <https://www.amnesty.org/en/latest/news/2020/07/hong-kong-human-rights-the-antidote-to-repression-as-national-security-law-kicks-in/>

¹⁸ Amnesty International, *Hong Kong: In the Name of National Security* (Index: ASA 17/4197/2021), 29 June 2021, <https://www.amnesty.org/en/documents/asa17/4197/2021/en/>, pp. 5-21.

¹⁹ Amnesty International, *Hong Kong: Submission to the UN Human Rights Committee 135th Session* (Index: ASA 17/5663/2022), 31 May 2022, <https://www.amnesty.org/en/documents/asa17/5663/2022/en/>, pp. 6-7, 9-15, 18-21.

²⁰ For example, UN Human Rights Committee, Concluding Observations on the Fourth Periodic Report of Hong Kong, China, 11 November 2022, UN Doc. CCPR/C/CHN-HKG/CO/4, paras 12-14; also, Special Rapporteurs, Comments on The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, 1 September 2020, UN Doc. CHN 17/2020

When Hong Kong was returned to Chinese sovereignty by the United Kingdom in 1997, the two countries' governments gave the city its own "mini-constitution", called the Basic Law. Article 23 of the Basic Law states that Hong Kong "shall enact laws on its own" to prohibit seven types of national security offences.

On 23 March 2024, the Article 23 bill was passed by the Legislative Council – which is now composed of members who could pass the political loyalty screening – came into force as a new law, the "Safeguarding National Security Ordinance" (SNSO). The legislation introduced China's definition of "national security" and "state secrets", together with additional ambiguous offences with heavy punishments, which further restrict freedom of expression and the right to protest. For more details, please refer to our Explainer²¹ and submission to the government's consultation process in February 2024.²²

It is important to note that the sedition offence is not part of the NSL. It is an offence defined in the colonial-era Crimes Ordinance, originally enacted by the British government and last used in the 1960s. Following the enactment of the SNSO in March 2024, the sedition offence was removed from the Crimes Ordinance and exists, with higher penalties, as part of the SNSO.

According to Amnesty International's research, as of 1 July 2024, a total of 11 people had been arrested under Article 23 with three of them being charged and remanded.

Arrests and prosecutions for allegedly "endangering national security"

As disclosed by the Hong Kong government, from 30 June 2020 (enactment of the NSL) to 21 June 2024, a total of 299 persons were arrested in cases involving alleged acts or activities endangering national security. These cases involved offences under the NSL, the Article 23 legislation and other national-security-related legislation. The government did not provide a breakdown of figures specifying which law was used in each arrest.

Amnesty International emphasises that the vast majority of so-called "acts endangering national security" that led to arrests for actions that would be considered protected under international human rights law.. This includes peacefully commemorating the Tiananmen crackdown,²³ subscribing to a dissident's Patreon account,²⁴ wearing a T-shirt printed with a political slogan,²⁵ performing a protest song in public area,²⁶ thanking the South Korean government for mistakenly playing the protest song as Hong Kong's "national anthem" in a rugby match,²⁷ and managing a Facebook page for civil servants to air grievances about internal operations of the government.²⁸

²¹ Amnesty International, "What is Hong Kong's Article 23 law? 10 things you need to know", 22 March 2024, <https://www.amnesty.org/en/latest/news/2024/03/what-is-hong-kongs-article-23-law-10-things-you-need-to-know/>

²² Amnesty International, *Hong Kong: Submission to the Security Bureau on Basic Law Article 23 Legislation Public Consultation Document* (Index: ASA 17/7755/2024), 27 February 2024, <https://www.amnesty.org/en/documents/asa17/7755/2024/en/>

²³ Hong Kong Free Press, "Rights activist Chow Hang-tung among 6 arrested over alleged sedition under Hong Kong's new security law", 28 May 2024, <https://hongkongfp.com/2024/05/28/breaking-6-arrested-under-hong-kongs-new-security-law/>

²⁴ Hong Kong Free Press, "8th arrest for 'sedition' linked to Tiananmen crackdown anniversary posts under Hong Kong's new security law", 3 June 2024, <https://hongkongfp.com/2024/06/03/breaking-8th-arrest-for-sedition-linked-to-tiananmen-crackdown-anniversary-posts-under-hong-kongs-new-security-law/>

²⁵ Hong Kong Free Press, "New security law: Man denied bail under Article 23 over 'seditious' slogans on t-shirt and mask", 14 June 2024, <https://hongkongfp.com/2024/06/14/new-security-law-man-denied-bail-under-article-23-over-seditious-slogans-on-t-shirt-and-mask/>

²⁶ Hong Kong Free Press, "Hong Kong man arrested under British colonial-era sedition law while mourning Queen outside consulate", 21 September 2022, <https://hongkongfp.com/2022/09/21/hong-kong-man-arrested-under-british-colonial-era-sedition-law-while-mourning-queen-outside-consulate/>

²⁷ Hong Kong Free Press, "Hong Kong man arrested for sedition after allegedly posting clip of anthem blunder with message of thanks", 22 November 2022, <https://hongkongfp.com/2022/11/22/hong-kong-man-arrested-for-sedition-after-allegedly-posting-clip-of-anthem-blunder-with-message-of-thanks/>

²⁸ Hong Kong Free Press, "Hong Kong national security police arrest 2 gov't workers over alleged 'seditious' social media posts", 10 August 2022, <https://hongkongfp.com/2022/08/10/national-security-police-arrest-2-govt-workers-over-alleged-seditious-social-media-posts/>

Of these cases, 175 persons had been charged, of which 156 persons have either been convicted or are awaiting sentencing.²⁹ They include 45 pro-democracy lawmakers and activists found guilty of conspiracy to commit subversion by organising a completely peaceful primary (see detail in next section).³⁰ The publicly-available government information does not mention the status of the other 19 prosecuted persons, but research conducted by an independent NGO shows that most, if not all, of them have not been acquitted – they continue to await trial.³¹

THE IMPACT: COURT CASES HIGHLIGHT HOW FREEDOM OF EXPRESSION IS PARTICULARLY TARGETED

Among the 299 people arrested for national-security-related offences, many were targeted for legitimately and peacefully exercising their freedom of expression. Examining the following selected cases, which are being pursued by the prosecution against a wide range of individuals for their peaceful exercise of freedom of expression, can provide insight into the ways in which the NSL in particular, and more recently Article 23, have been used to limit freedoms and suppress dissent.

Jimmy Lai (黎智英)

Jimmy Lai is being persecuted for his peaceful support for democracy in Hong Kong, his ownership of the outspoken newspaper Apple Daily, and the exercise of his rights to freedom of expression and peaceful assembly.

Shortly after the NSL was introduced in June 2020, nearly 200 police raided Apple Daily's headquarters, and Lai was arrested along with his two sons and several newspaper executives. The newspaper closed in June 2021 following the re-arrest of the same executives in another police raid and the freezing of its assets, in what Amnesty International at the time called a "flagrant attack on press freedom".³²

On 11 December 2020, Lai was charged with two counts of "conspiracy to commit collusion with foreign countries or external elements," and one count of "collusion with foreign countries or external elements" under the NSL. Hong Kong authorities said the charges related to the publication of articles in Apple Daily that allegedly called on foreign countries to impose sanctions, along with his meetings with US politicians and interviews with overseas media. Authorities also cited Lai's Twitter (now X) posts and his list of followers on the platform which included prominent foreign politicians and NGOs supportive of the pro-democracy movement in Hong Kong.³³

He has been denied bail since 31 December 2020. The Hong Kong government also prohibited Lai's British lawyer Timothy Owen from representing him after legislators passed an amendment giving the city's Chief Executive the power to veto foreign lawyers from working on national security cases. The trial began on 18 December 2023 with no specified conclusion date, but it is expected to be finished by the end of 2024.

Lai faces a maximum sentence of life imprisonment if convicted. He has additionally been charged in the same case with "sedition", which carries a maximum sentence of two years. Hong Kong courts have already convicted Lai on four separate cases involving "unauthorized assemblies" and fraud and handed down prison sentences totalling over seven years. As of writing, he has already spent more than three years behind bars.

Lai is 76 years old, and due to his age and health needs, faces specific risks and challenges while he is held in detention.

²⁹ Hong Kong Government, "保安局局長出席撲滅罪行委員會會議後會見傳媒談話全文", 21 June 2024, <https://www.info.gov.hk/gia/general/202406/21/P2024062100821.html>; Also see Hong Kong Free Press, "Explainer: Hong Kong's national security crackdown – month 48", 30 June 2024, <https://hongkongfp.com/2024/06/30/explainer-hong-kongs-national-security-crackdown-month-48/>

³⁰ Amnesty International, "Hong Kong: Opposition figures convicted in 'ruthless purge' of 47", 30 May 2024, <https://www.amnesty.org/en/latest/news/2024/05/hong-kong-opposition-figures-convicted-in-ruthless-purge-of-47/>

³¹ ChinaFile, "Tracking the Impact of Hong Kong's National Security Law", 9 April 2024, <https://www.chinafile.com/tracking-impact-of-hong-kongs-national-security-law> (accessed on 17 June 2024)

³² Amnesty International, "In a year, a single law has decimated human rights in Hong Kong", 30 June 2021, <https://www.amnesty.org/en/latest/news/2021/06/in-a-year-a-single-law-has-decimated-human-rights-in-hong-kong/>

³³ Amnesty International, "Hong Kong: Jimmy Lai's sham trial a further attack on press freedom", 15 December 2023, <https://www.amnesty.org/en/latest/news/2023/12/hong-kong-jimmy-lais-sham-trial-a-further-attack-on-press-freedom/>

He is a dual British-Hong Kong national but has been denied consular access by the Hong Kong authorities on the basis that they do not recognize dual nationality.

Chow Hang-Tung (鄒幸彤)

Human rights lawyer and labour rights advocate Chow Hang-tung, currently imprisoned, was charged for “inciting subversion” under the NSL in September 2021 for her peaceful work with the Hong Kong Alliance in Support of Patriotic Democratic Movements of China (the Alliance) which organized the world’s biggest candlelight vigil commemorating victims of the 1989 Tiananmen crackdown. If convicted, Chow faces the possibility of 10 years’ imprisonment.³⁴ At the time of being charged, Chow was the vice-chair of the Alliance. Although her trial was originally scheduled for September 2024, the court said in April that it would not commence before the end of the year.

On 13 December 2021, Chow was sentenced to 12 months’ imprisonment for taking part in an unauthorized assembly after joining a peaceful candlelight vigil commemorating the Tiananmen crackdown on 4 June 2020. On 4 January 2022, she received a 15-month prison sentence in a second conviction on the charge of “inciting others to take part in an unauthorised assembly” after she published a social media post asking people to commemorate the Tiananmen crackdown on 4 June 2021.³⁵ Since part of the sentence was allowed to be served concurrently, she is therefore serving a total of 22-month sentence for the two vigil cases, while awaiting her trial on NSL charges.

47 opposition figures

In Hong Kong’s largest prosecution under the NSL, 47 opposition candidates were jointly charged with “conspiracy to commit subversion”. Most were detained for almost two years awaiting trial. The charges relate to their organization and participation in self-organized “primaries” for the 2020 Legislative Council elections that were ultimately postponed by authorities on Covid-19 grounds before the Chinese government brought in a new electoral system that strictly vetted who could stand for office.

The trial began on 6 Feb 2023 and ended on 4 Dec 2023. Thirty-one of the defendants pleaded guilty. Among the 16 people who pleaded not guilty, 14 were convicted and two were acquitted on 30 May 2024.³⁶ However, the Hong Kong government has filed an appeal against one of the acquitted persons, meaning that only one defendant has ultimately been exonerated.³⁷ “The court is currently hearing the mitigation of the 45 convicted defendants. The earliest possible time for the announcement of their sentences will be in early-September.”³⁸

Peacefully organizing and promoting internal primaries to select candidates is a legitimate exercise of freedom of expression, association and the right to participate in public affairs,³⁹ which should never be seen as a genuine threat to Hong Kong’s existence, territorial integrity or political independence under international human rights standards.⁴⁰

³⁴ Amnesty International, “Hong Kong: Chow Hang-tung: Write for Rights 2022 Case Card”, 28 September 2022, <https://www.amnesty.org/en/documents/asa17/5839/2022/en/>

³⁵ Amnesty International, “Hong Kong: Urgent Action: Imprisoned June 4 vigil organizer faces further charges: Chow Hang-tung”, 3 May 2022, <https://www.amnesty.org/en/documents/asa17/5555/2022/en/>, p. 2.

³⁶ Amnesty International, “Hong Kong: Opposition figures convicted in ‘ruthless purge’ of 47”, 30 May 2024, <https://www.amnesty.org/en/latest/news/2024/05/hong-kong-opposition-figures-convicted-in-ruthless-purge-of-47/>

³⁷ Hong Kong Free Press, “Hong Kong justice dept. will not appeal acquittal of democrat cleared in city’s largest national security case”, 14 June 2024, <https://hongkongfp.com/2024/06/14/hong-kong-justice-dept-will-not-appeal-acquittal-of-democrat-cleared-in-citys-largest-national-security-case/>

³⁸ Hong Kong Free Press, Hong Kong 47: Mitigation hearings for national security case delayed by a month due to ‘unforeseen circumstances’, 16 July 2024, <https://hongkongfp.com/2024/07/16/hong-kong-47-mitigation-hearings-for-national-security-case-delayed-by-a-month-due-to-unforeseen-circumstances/>

³⁹ Amnesty International, “Hong Kong: Mass arrest of opposition figures highlights repressive power of national security law”, 6 January 2021, <https://www.amnesty.org/en/latest/news/2021/01/hong-kong-mass-arrest-of-opposition-figures-highlights-repressive-power-of-national-security-law-2/>

⁴⁰ Relevant standards include articles 19 and 22 of the ICCPR, as well as paras 29 to 32 of the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights.

Stand News (立場新聞)

Stand News was an independent and non-profit online news website based in Hong Kong founded in 2014. It had extensive coverage of the police violence during the anti-extradition protests and published a number of exclusive investigative stories critical of the government. The news outlet was rated as the most credible online news source in Hong Kong according to surveys by a university in 2016 and 2019.⁴¹

On 29 December 2021, senior executives and board members of Stand News were arrested for “seditious publications”. National security police officers raided the online news outlet and authorities confirmed that they froze more than HK\$61 million (approximately US\$7.8 million) in assets. Stand News ceased operation on the same day.⁴²

Former editor-in-chief Chung Pui-kuen and former acting chief editor Patrick Lam were later charged. The trial began on 31 October 2022 and ended on 28 June 2023. The verdict was originally scheduled to be delivered on 4 October 2023, but following three postponements announced by the court, judges are now expected to deliver the verdict on 30 August 2024.⁴³

LOOKING FORWARD – THE NATURE OF ARTICLE 23 OFFENCES COULD CREATE A GLOBAL CHILLING EFFECT AND CONSULAR RISKS

Article 23 legislation (i.e. Safeguarding National Security Ordinance, SNSO) is a complex law because some of its offences apply to Chinese citizens only, while others may apply to both Chinese and non-Chinese citizens.

The following list provides an in-depth analysis of the effect of every offence under the SNSO, which is based on the government’s consultative paper and the text of the legislation as adopted in the Legislative Council on 19 March 2024. Key findings of this analysis include:

- **Six offences are all-encompassing in the sense that they apply to everyone, everywhere, regardless of citizenship and the place where the relevant acts are done.** These include unlawful disclosure of state secrets (certain subsections), unlawful disclosure of information that appears to be confidential matter, espionage (certain subsections), entering prohibited places without lawful authority, sabotage endangering national security, and doing acts endangering national security in relation to computers or electronic systems.
- **All offences apply to Chinese citizens if the relevant acts are conducted in Hong Kong.** Four of them carry a maximum sentence of life imprisonment.
- **23 offences could have extraterritorial effect on Chinese citizens** if certain conditions are met. Given that many people from Hong Kong, including diaspora activists, exiled dissidents, and students, retain their Chinese citizenship even after moving abroad, they could potentially be targeted by these 23 offences.
- Except for three offences exclusively applicable to Chinese citizens, **all other offences could apply to foreign nationals if the relevant acts are conducted in the territory of Hong Kong.** Three of them carry a maximum sentence of life imprisonment.
- **Another 10 offences could have extraterritorial effect on foreign nationals, as long as the individual responsible for the relevant acts is a Hong Kong resident, which would include a number of expatriates who hold Hong Kong ID cards.** This includes assisting members of Chinese armed force to abandon duties or absent without leave, inciting disaffection of public officers, inciting disaffection of personnel of offices of Central Authorities in Hong Kong, sedition, unlawful acquisition of state secrets, unlawful possession of state secrets, unlawful

⁴¹ Ming Pao, “蘇鑰機：香港傳媒公信力：低處未必最低”，28 November 2019,

<https://news.mingpao.com/pns/%E8%A7%80%E9%BB%9E/article/20191128/s00012/1574878673471>

⁴² Amnesty International, *Amnesty International Report 2021/22: The State of the World’s Human Rights* (Index: POL 10/4870/2022), 29 March 2022, <https://www.amnesty.org/en/documents/pol10/4870/2022/en/>

⁴³ Hong Kong Free Press, “Verdict for Hong Kong Stand News sedition trial postponed again to August”, 24 April 2024, <https://hongkongfp.com/2024/04/24/breaking-verdict-for-hong-kong-stand-news-sedition-trial-postponed-again-to-august/>

disclosure of state secrets, unlawful disclosure of information acquired by espionage, espionage (certain subsections), and unlawful disclosure of personal data of persons handling cases or work concerning national security.

Appendix: Assessment of the impact of Article 23 offences

For the purpose of this analysis:

Chinese citizen = Holders of passports issued by the People's Republic of China (PRC), Hong Kong or Macau (please refer to relevant legislation for accurate legal definition⁴⁴)

HKSAR resident = Holders of Hong Kong identity cards, including certain expatriates (please refer to relevant legislation for accurate legal definition⁴⁵)

Hong Kong permanent resident = Holders of Hong Kong permanent identity cards (please refer to relevant legislation for accurate legal definition⁴⁶)

Yes = An individual could be charged with this offence.

No = An individual could not be charged with this offence.

Yes, if Cat. A conditions are met = An individual could be charged with this offence only if he/she is a (1) HK permanent resident; (2) body corporate that is incorporated, formed or registered in the HKSAR; or (3) body of persons, whether corporate or unincorporate, that has a place of business in the HKSAR.

Yes, if Cat. B conditions are met = An individual could be charged with this offence only if he/she is a (1) HKSAR resident who is a Chinese citizen; (2) body corporate that is incorporated, formed or registered in the HKSAR; or (3) body of persons, whether corporate or unincorporate, that has a place of business in the HKSAR.

Yes, if Cat. C conditions are met = An individual could be charged with this offence only if he/she is a (1) HKSAR resident; (2) body corporate that is incorporated, formed or registered in the HKSAR; or (3) body of persons, whether corporate or unincorporate, that has a place of business in the HKSAR.

Conduct in HK = The relevant acts were carried out within the territory of Hong Kong.

Conduct outside HK = The relevant acts were carried out outside of Hong Kong's territory. The acts may be carried out in other locations in the PRC (e.g. Beijing) or Macau, or in foreign territories (e.g. New York).

Section	Offence	Max. Penalty ⁴⁷	Chinese citizens		Non-Chinese citizens	
			Conduct in HK	Conduct outside HK	Conduct in HK	Conduct outside HK
10	Treason	Life imprisonment	Yes	Yes, if the individual is also a HKSAR resident	No	No
11	Publicly manifest intention to commit offence of treason	14 yrs	Yes	No	No	No
12	Requirement on disclosure of commission by others of offence of treason	14 yrs	Yes	No	No	No
13	Unlawful Drilling	10 yrs	Yes	Yes, if Cat. A conditions are met	Yes	Yes, if Cat. A conditions are met
15	Insurrection	Life imprisonment	Yes	Yes, if Cat. B conditions are met	Yes	Yes, if Cat. B conditions are met
17	Incitement of members of Chinese armed force to mutiny	Life imprisonment	Yes	Yes, if Cat. B conditions are met	Yes	Yes, if Cat. B conditions are met

⁴⁴ See section 3 of the [Interpretation and General Clauses Ordinance](#), Articles 4 to 6 of the [Nationality Law of the People's Republic of China](#) and "[Explanations of Some Questions by the Standing Committee of the National People's Congress Concerning the Implementation of the Nationality Law of the People's Republic of China in the Hong Kong Special Administrative Region](#)" adopted on 15 May 1996.

⁴⁵ See, for example, section 14 of the SNSO.

⁴⁶ See section 3 of the [Interpretation and General Clauses Ordinance](#) and Schedule 1 to the [Immigration Ordinance](#).

⁴⁷ Some offences carry different maximum sentence for different subsections. In that case, only the most serious one is listed in the table.

Section	Offence	Max. Penalty ⁴⁷	Chinese citizens		Non-Chinese citizens	
			Conduct in HK	Conduct outside HK	Conduct in HK	Conduct outside HK
18	Assisting members of Chinese armed force to abandon duties or absent without leave;	10 yrs	Yes	Yes, if Cat. C conditions are met	Yes	Yes, if Cat. C conditions are met
19	Inciting disaffection of public officers;	10 yrs	Yes	Yes, if Cat. C conditions are met	Yes	Yes, if Cat. C conditions are met
20	Inciting disaffection of personnel of offices of Central Authorities in Hong Kong	10 yrs	Yes	Yes, if Cat. C conditions are met	Yes	Yes, if Cat. C conditions are met
21	Possession of documents or articles of incitement nature with intent to commit specified offence	3 yrs	Yes	No	Yes	No
24(1)&(2)	Sedition	10 yrs	Yes	Yes, if Cat. C conditions are met	Yes	Yes, if Cat. C conditions are met
24(3)	Possession of seditious publication	3 yrs	Yes	No	Yes	No
32	Unlawful acquisition of state secrets	7 yrs	Yes	Yes, if Cat. C conditions are met	Yes	Yes, if Cat. C conditions are met
33	Unlawful possession of state secrets	5 yrs	Yes	Yes, if Cat. C conditions are met	Yes	Yes, if Cat. C conditions are met
34	Unlawful possession of state secrets when leaving HKSAR	7 yrs	Yes	No	Yes	No
35 (1), (4), (5)	Unlawful disclosure of state secrets	10 yrs	Yes	Yes	Yes	Yes
35 (6), (8)	Unlawful disclosure of state secrets	7 yrs	Yes	Yes, if Cat. C conditions are met	Yes	Yes, if Cat. C conditions are met
36	Unlawful disclosure of information etc. acquired by espionage	10 yrs	Yes	Yes, if Cat. C conditions are met	Yes	Yes, if Cat. C conditions are met
37	Unlawful disclosure of information etc. that appears to be confidential matter	7 yrs	Yes	Yes	Yes	Yes
39	Safeguarding of information	2 yrs	Yes	No	Yes	No
43(1), (2)(a), (2)(b)	Espionage	20 yrs	Yes	Yes	Yes	Yes
43(1), (2)(c)	Espionage	20 yrs	Yes	Yes, if Cat. B conditions are met	Yes	Yes, if Cat. B conditions are met
43(3)	Espionage	10 yrs	Yes	Yes, if Cat. C conditions are met	Yes	Yes, if Cat. C conditions are met

Section	Offence	Max. Penalty ⁴⁷	Chinese citizens		Non-Chinese citizens	
			Conduct in HK	Conduct outside HK	Conduct in HK	Conduct outside HK
44	Entering prohibited places without lawful authority etc.	2 yrs	Yes	Yes	Yes	Yes
45	Powers exercisable in relation to prohibited places	2 yrs	Yes	No	Yes	No
46	Obstruction etc. in the vicinity of prohibited places	2 yrs	Yes	No	Yes	No
47	Participating in or supporting external intelligence organizations, or accepting advantages offered by them, etc.	14 years	Yes	Yes, if Cat. B conditions are met	Yes	Yes, if Cat. B conditions are met
49	Sabotage endangering national security	Life Imprisonment	Yes	Yes	Yes	Yes
50	Doing acts endangering national security in relation to computers or electronic systems	20 yrs	Yes	Yes	Yes	Yes
52	External interference endangering national security	14 yrs	Yes	Yes, if Cat. B conditions are met	Yes	Yes, if Cat. B conditions are met
62	Prohibition of participation in activities of prohibited organizations	14 yrs	Yes	No	Yes	No
63	Allowing meetings of prohibited organizations to be held on premises	7 yrs	Yes	No	Yes	No
64	Inciting etc. others to become members of prohibited organizations	7 yrs	Yes	No	Yes	No
65	Procuring subscription or aid for prohibited organizations	7 yrs	Yes	No	Yes	No
69	Persons responsible for providing information	Level 4 fine	Yes	No	Yes	No
86	Contravention of movement restriction orders	1 yr	Yes	No	Yes	No
88	No prejudicing of investigation of offences endangering national security	7 yrs	Yes	No	Yes	No

Section	Offence	Max. Penalty ⁴⁷	Chinese citizens		Non-Chinese citizens	
			Conduct in HK	Conduct outside HK	Conduct in HK	Conduct outside HK
90	Prohibition against making available funds etc. or dealing with funds etc.	7 yrs	Yes	No	Yes	No
91	Prohibition against certain activities in connection with immovable property	7 yrs	Yes	No	Yes	No
92	Prohibition in connection with joint ventures or partnerships with relevant absconders	7 yrs	Yes	No	Yes	No
98	Provision of false or misleading information or documents for purpose of obtaining licences	3 yrs	Yes	No	Yes	No
118	Unlawful disclosure of personal data of persons handling cases or work concerning national security	10 yrs	Yes	Yes, if Cat. C conditions are met	Yes	Yes, if Cat. C conditions are met
119	Unlawful harassment of persons handling cases or work concerning national security	10 yrs	Yes	No	Yes	No