



Australian Government  
Department of Home Affairs

# Common Claims

s. 22(1)(a)(ii)

Country of Origin Information Services Section (COISS)

Effective from 14 April 2023

### About this product

The Country of Origin Information Services Section (COISS) in the Department of Home Affairs (Home Affairs) has prepared this product to facilitate consideration of claims for protection visas in Australia. The purpose of it is to provide a compilation of country of origin information on common claims identified in the current caseload. Generally, it examines human rights and protection issues which relate to Australia's international obligations under the 1951 Refugee Convention and other treaties. It does not represent an exhaustive overview of the country information or issues.

This product is based on open source documents, which have been uploaded to CISNET. The paragraphs of country information included in this product each include a leading or headline sentence that represents a summary of the COI cited in that paragraph. They are not legal or policy statements about an issue. Supporting sentences amplify and provide more detail or context about the issue and are reliant on sources that are fully documented throughout this document. The reliability and relevance of those sources needs to be assessed in relation to the information provided.

This product is current at the time of completion and the date indicated on the front page.

Should a request to access this document be made under the *Freedom of Information Act 1982*, and/or by anyone who does not have access to CISNET, a decision for its release should be referred to COISS via email: [s.22\(1\)\(a\)@homeaffairs.gov.au](mailto:s.22(1)(a)@homeaffairs.gov.au).

Table of Contents

s. 22(1)(a)(ii)

HONG KONG .....41

CIVIL UNREST .....41

THE NATIONAL SECURITY LAW .....42

*Implementation* .....44

*This page is intentionally left blank.*

## Hong Kong

### Civil Unrest

**Hong Kong experienced significant civil unrest in both 2019 and 2020.** Protests broke out in June 2019 over legislation that would allow extradition to mainland China (the extradition bill was formally withdrawn on 23 October 2019<sup>507</sup>), but it has since evolved into a broader pro-democracy movement.<sup>508</sup> The street protests appear to have largely ceased amid the ongoing legal crackdown against pro-democracy individuals and groups.<sup>509</sup> Protestors attended a Hong Kong court in March 2021 in support of the '47 Democrats,' opposition figures who helped organise a public opinion poll to coordinate pro-democracy candidates for the LegCo election, which resulted in charges of subversion.<sup>510</sup> Hundreds of protestors held demonstrations outside the court to support them wearing black, the colour of choice during the 2019 protests, and chanted banned slogans.<sup>511</sup>

**Thousands of arrests have been made in relation to the civil unrest and judicial proceedings are ongoing.** According to official figures as at August 2022, 10,279 individuals have been arrested over involvement in anti-government protests since June 2019.<sup>512</sup> In April 2022, the authorities confirmed 'it took 300 to 400 days for some 90 court cases related to the 2019 protests to reach a conclusion.'<sup>513</sup> Some protestors may not face trial until late 2023 due to the judicial backlog.<sup>514</sup> Hong Kong authorities reported to the Legislative Council in October 2022 that, as of 31 August 2022, 2,893 individuals had been prosecuted for protest-related offences including 517 minors,<sup>515</sup> and that '2,044 defendants had completed their judicial proceedings, with 80 per cent of them – or 1,631 individuals – "bearing legal consequences," including prison sentences, community service orders, probation and binding-over orders.'<sup>516</sup> Protestors and other pro-democracy individuals have faced trial over a range of charges including rioting, and other 'offences such as unlawful assembly, arson, desecrating the national flag, possession of an offensive weapon, assaulting a police officer, and stopping a vehicle on an expressway.'<sup>517</sup> Many have been convicted of offences and handed prison sentences in

<sup>507</sup> 'Hong Kong's 'dead' extradition bill finally buried as government formally withdraws it', South China Morning Post, 23 October 2019, 20191024102010

<sup>508</sup> 'Hong Kong Timeline 2019-2022: Anti-Extradition Protests & National Security Law', Human Rights in China (HRIC), 16 May 2022, 20230413114011

<sup>509</sup> 'How China Dealt a 'Knockout Blow' to Its Opponents in Hong Kong', Tiffany May, The New York Times, 5 February 2023, 20230208093210; 'Explainer: Hong Kong's hollowed-out pro-democracy camp – who's left and what's next?', Hong Kong Free Press, 29 May 2021, 20210811140537

<sup>510</sup> 'Hong Kong: 47 Charged Under Abusive Security Law', Human Rights Watch, 2 March 2021, 20210302101043; People found guilty of subversion can be sentenced to life in prison with a range of other punishments from short-term detention to 10 years behind bars, see 'Why have Hong Kong's opposition figures been charged with subversion and does the camp now face total wipeout?', South China Morning Post, 1 March 2021, 20210302110434; 'Hong Kong's Crackdown Moves With Dizzying Speed', The Diplomat, 1 March 2021, 20210302114641; Trial(s) for the '47 Democrats' have commenced and are ongoing, consult CISNET for the latest updates.

<sup>511</sup> 'Hong Kong's Crackdown Moves With Dizzying Speed', The Diplomat, 1 March 2021, 20210302114641; 'Hong Kong activists chant protest slogans as subversion hearing begins guarded by 100 police', ABC News (Australia), 1 March 2021, 20210302121114; 'Hong Kong activists chant protest slogans as subversion hearing begins guarded by 100 police', ABC News (Australia), 1 March 2021, 20210302121114; 'Queuing, blank placards and shopping: how Hongkongers innovated acts of resistance during security law clampdown', Hong Kong Free Press, 15 April 2021, 20210415151925

<sup>512</sup> 'Almost 3,000 people, including 517 minors, prosecuted so far over 2019 Hong Kong protests', Kelly Ho, Hong Kong Free Press, 26 October 2022, 20221028125150; see also, 'Hong Kong protests: more than 10,200 arrested in connection with unrest since 2019, government tells lawmakers', Ng Kang-chung, South China Morning Post, 9 April 2021, 20220309140444

<sup>513</sup> '90 court cases related to 2019 Hong Kong protests took 300 to 400 days to conclude', Peter Lee, Hong Kong Free Press, 27 April 2022, 20220428101529, see 'LCQ14: Statistics on criminal cases', Hong Kong: Government of, 27 April 2022, 20220629095653

<sup>514</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, p.8, 20230321165832

<sup>515</sup> See also, 'Alarm by sentencing under national security law', Office of the High Commissioner for Human Rights (OHCHR), 10 October 2022, 20221012172014; 'First minors sentenced under Hong Kong's national security law', Almond Li, Hong Kong Free Press, 8 October 2022, 20221010134032

<sup>516</sup> 'Almost 3,000 people, including 517 minors, prosecuted so far over 2019 Hong Kong protests', Kelly Ho, Hong Kong Free Press, 26 October 2022, 20221028125150; See also, 'More than half of Hong Kong protesters convicted over roles in anti-government demonstrations have 'deep remorse', security chief says', William Yiu, South China Morning Post, 11 September 2022, 20220913102852; 'Explained in data: What happened to Hong Kong's protesters?', Lea Mok, Hong Kong Free Press, 18 July 2022, 20221108115900

<sup>517</sup> 'Hong Kong protests: more than 10,200 arrested in connection with unrest since 2019, government tells lawmakers', Ng Kang-chung, South China Morning Post, 9 April 2021, 20220309140444; a May 2021 media source quotes one official giving slightly different numbers of 10,250 arrests and 2,500 prosecutions; '10,250 arrests and 2,500 prosecutions linked to 2019 Hong Kong protests, as security chief hails dip in crime rate', Hong Kong Free Press, 17 May 2021, 2021051815261

accordance with the law.<sup>518</sup> A number of defendants have been acquitted for various reasons including lack of evidence and police procedural issues.<sup>519</sup> Some judgments which have acquitted defendants have attracted government criticism.<sup>520</sup> Judges have also been intimidated or threatened for their decisions,<sup>521</sup> and have been criticised in Chinese media in cases where they were perceived to be biased toward the pro-democracy movement.<sup>522</sup>

### The National Security Law

Please see COISS Hong Kong National Security Law Thematic Brief (July 2022) for detailed information on the legal framework and implementation: 'Hong Kong National Security Law Thematic Brief (July 2022)', Country of Origin Information Services Section (COISS), 12 July 2022, [20220722165547](#) (Word), [20220712152806](#) (PDF)

**The National Security Law (NSL) was implemented on 1 July 2020.** It outlaws, in vague terms, 'secession', 'subversion', 'terrorist activities' and collusion with foreign entities.<sup>523</sup> All of the offences are broadly defined. Both 'secession' and 'subversion' are broadly defined, but can include 'overthrowing', 'undermining' or 'interfering' with the Hong Kong or PRC government.<sup>524</sup> There is no need for force, or the threat of force, to be involved in the crime and those who provide financial support to people guilty of offences are also guilty of an offence.<sup>525</sup> The offence of 'terrorism' is broadly defined and can include acts, plans or even threats to harm the government or a public facility.<sup>526</sup> Depending on the 'seriousness' of the offence, which is also not defined, penalties for any of these offences can range from three years in prison to life in prison.<sup>527</sup> The NSL has attracted

<sup>518</sup> 'Explained in data: What happened to Hong Kong's protesters?', Lea Mok, Hong Kong Free Press, 18 July 2022, [20221108115900](#); 'Hong Kong Timeline 2019-2022: Anti-Extradition Protests & National Security Law', Human Rights in China (HRIC), 16 May 2022, [20230413114011](#); The following is not an exhaustive list of relevant convictions, see 'Hong Kong protests: judge jails 4 men for up to 6 months over stand-off at police station in 2019', South China Morning Post, 6 March 2022, [20220308092515](#); '11 found guilty of rioting during 2019 National Day protests in Hong Kong', Selina Cheng, Hong Kong Free Press, 27 January 2022, [20220131101418](#); 'Hong Kong protests: apprentice electrician gets 4 months' jail for taking part in unlawful assembly in 2019', South China Morning Post, 17 October 2021, [20211019130017](#)

<sup>519</sup> 'Hong Kong Timeline 2019-2022: Anti-Extradition Protests & National Security Law', Human Rights in China (HRIC), 16 May 2022, [20230413114011](#); '4 Hong Kong protesters convicted over 2019 illegal assembly, but court questions police handling of evidence', Candice Chau, Hong Kong Free Press, 14 January 2022, [20220117094814](#)

<sup>520</sup> 'Hong Kong protests: justice department lodges appeal over court's decision to acquit trio of rioting, arguing it could set far-reaching precedent', South China Morning Post, 21 September 2020, [20200922125133](#); 'Hong Kong protests: justice department lodges appeal over court's decision to acquit trio of rioting, arguing it could set far-reaching precedent', South China Morning Post, 21 September 2020, [20200922125133](#); 'Hong Kong's top court adjourns verdict over whether 'joint enterprise' applies to rioting cases', Hong Kong Free Press, 4 October 2021, [20211007102121](#); 'Hong Kong court narrows scope of riot convictions', Jurist, 6 November 2021, [20211108132037](#); 'Hong Kong protests: 20 found guilty over 2019 Sheung Wan riot, though recent 'joint enterprise' ruling plays role in 3 acquittals', South China Morning Post, 12 November 2021, [20211116102113](#); 'Hong Kong justice chief warns public that court's riot ruling still leaves government with plenty of legal options at its disposal', South China Morning Post, 6 November 2021, [20211108101036](#)

<sup>521</sup> 'Tougher security measures for Hong Kong courts including enhanced mail inspection, extra police support after judges sent threatening letters', South China Morning Post, 24 November 2021, [20211125093252](#); 'Hong Kong's judiciary under fire over alleged leniency in protest cases: will a sentencing council redress claims of bias and lead to tougher penalties?', South China Morning Post, 25 September 2020, [20200925121457](#); 'Hong Kong judge gives speech from bench decrying harassment faced by him and his colleagues', South China Morning Post, 8 July 2021, [20210709102540](#); 'Hong Kong court grants injunction forbidding doxxing of judicial officials and their families', South China Morning Post, 29 October 2020, [20201030182555](#); 'Judiciary severely condemns intimidations against judicial officers', Government of Hong Kong, 15 November 2021, [20211117140502](#); 'Beijing loyalists target Hong Kong judges after protester acquittals', Channel News Asia, 07 November 2020, [20201113132017](#); 'Condemnations after suspicious white substance sent to Hong Kong's High Court; police say may be protein powder', Candice Chau, Hong Kong Free Press, 6 July 2022, [20220707091527](#)

<sup>522</sup> 'Submission by Human Rights Watch to the United Nations Human Rights Committee in Advance of its review of China (Hong Kong)', Human Rights Watch (HRW), 29 June 2022, [20220630082619](#)

<sup>523</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, [20230413124559](#); See an earlier version published by Hong Kong Free Press: 'In full: Official English translation of the Hong Kong national security law', Hong Kong Free Press, 1 July 2020, arts. 20-30, [20200713124208](#) and Chinese state media website Xinhua: 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of China, 1 July 2020, [202007101094622](#) 'How China Dealt a 'Knockout Blow' to Its Opponents in Hong Kong', Tiffany May, The New York Times, 5 February 2023, [20230208093210](#)

<sup>524</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 23, [20230413124559](#)

<sup>525</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 14, [20230413124559](#)

<sup>526</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, arts. 24ff, [20230413124559](#)

<sup>527</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, chap III, [20230413124559](#)

international condemnation from international organisations,<sup>528</sup> foreign governments,<sup>529</sup> and recently, the United Nations Human Rights Committee.<sup>530</sup>

**The NSL operates separately from Hong Kong Basic Law and may not contain the same legal safeguards.** The NSL was implemented in Annex III of the Hong Kong Basic Law which provides where PRC national laws shall have local effect.<sup>531</sup> The NSL was implemented by promulgation rather than the legislative process which would have required review by the Hong Kong legislature.<sup>532</sup> The NSL takes precedence over local laws where there is inconsistency.<sup>533</sup> The law applies extra-territorially, including against actions committed in Australia.<sup>534</sup> The NSL is written in the style of PRC laws. The contents are similar in wording and style to Chinese legislation and not the British style familiar in Hong Kong.<sup>535</sup> The law itself allows the PRC government to interpret its provisions and establishes a special prosecution office for these cases.<sup>536</sup> Article 55 of the NSL specifically allows for Hong Kong authorities to ask the PRC government to take jurisdiction when a security case is complex, if circumstances meant that the Hong Kong government was unable to enforce the legislation or when imminent threats to national security have occurred.<sup>537</sup> The 'National Security Committee' set up under the law is protected from 'interference', which is not defined.<sup>538</sup> Its work is not subject to 'disclosure', which is also not defined.<sup>539</sup> Its decisions are not subject to judicial review.<sup>540</sup> Trials for NSL cases may be undertaken without a jury.<sup>541</sup> Judges who hear cases under

<sup>528</sup> 'Hong Kong: Submission to the UN Human Rights Committee 135th Session, 27 June 2022 - 29 July 2022', Amnesty International, 31 May 2022, 20220601092851; 'Hong Kong: In the name of national security', Amnesty International, 29 June 2021, 20220309142136; 'Submission by Human Rights Watch to the United Nations Human Rights Committee in Advance of its review of China (Hong Kong)', Human Rights Watch (HRW), 29 June 2022, 20220630082619

<sup>529</sup> 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2021', United Kingdom Foreign, Commonwealth and Development Office, 13 December 2021, 20211217133628; '2022 Hong Kong Policy Act Report', United States Department of State, 30 March 2022, 20220401094120; 'EU Annual Report on Human Rights and Democracy 2021 Country Updates', European Union, 19 April 2022, p. 191-193, 20220421091254

<sup>530</sup> 'Concluding observations on the fourth periodic report of Hong Kong, China', UN Human Rights Committee, 27 July 2022, 20220728153244

<sup>531</sup> 'The Constitution of the People's Republic of China - The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China', Government of Hong Kong, 1 May 2021, Instrument 5, p. 126, 20220303123135

<sup>532</sup> Human Rights Watch provides the following explainer: 'The NSL was inserted into Annex III of the Basic Law. Hong Kong's "one country, two systems" constitutional arrangement means that China's national laws do not apply to the city. While article 18 of the Basic Law gives the NPCSC powers to add laws to Annex III, the laws must undergo either legislation or promulgation. Instead of legislation, which would have involved the Hong Kong government introducing the NSL to the then semi-democratic Legislative Council for review, the Hong Kong chief executive Carrie Lam simply issued a legal notice in the Government Gazette, applying the NSL on Hong Kong verbatim. The NSL was the first time that a Chinese law carrying criminal penalties was introduced to Hong Kong through promulgation and without a legislative process.' 'Submission by Human Rights Watch to the United Nations Human Rights Committee in Advance of its review of China (Hong Kong)', Human Rights Watch (HRW), 29 June 2022, 20220630082619

<sup>533</sup> 'In full: Official English translation of the Hong Kong national security law', Hong Kong Free Press, 1 July 2020, arts. 21ff, 20200713124208 cf. 'Criminal Law of the People's Republic of China', 14 March 1997, art. 62, CX168961; see also for full text: 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of China, 1 July 2020, 20200701094622

<sup>534</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, arts. 37, 38, 20230413124559

<sup>535</sup> Note for example, the way penalties are considered, in vague terms, for different levels of seriousness, which are not defined 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, arts. 21ff, 20230413124559 cf. 'Criminal Law of the People's Republic of China', 14 March 1997, arts. 102ff CX168961; see also legal academic analysis: 'Why Beijing must respect Hong Kong courts' interpretation of national security law', Professor Simon Young (University of Hong Kong), South China Morning Post, 8 July 2020, 20200713143654

<sup>536</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, arts. 18, 65, 20230413124559

<sup>537</sup> 'National security law: retired Hong Kong judge says it's 'reasonable' for Beijing to take jurisdiction in exceptional cases', South China Morning Post, 14 May 2021, 20210622151107; 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 55, 20230413124559

<sup>538</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 14, 20230413124559

<sup>539</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 14, 20230413124559

<sup>540</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 14, 20230413124559

<sup>541</sup> 'There's no need for jury in security trial, judge rules', The Standard, 21 May 2021, 20210521145007; 'First trial under Hong Kong's national security law under way', Aljazeera, 23 June 2021, 20210701144602; See: 'No jury for Hong Kong's first national security trial: source', France 24, 8 February 2021, 20210302143335; 'First trial of a defendant charged under Hong Kong's national security law 'to proceed without a jury'', South China Morning Post, 9 February 2021, 20210302142005; 'National security trial for Hong Kong media mogul Jimmy Lai to proceed without jury - reports', Hillary Leung, Hong Kong Free Press, 18 August 2022, 20220818140923; A non-jury trial is planned for the trial(s) '47 Democrats,' 'the city's largest national

the law will be specially selected by the Chief Executive (Premier) of Hong Kong in consultation with the central government.<sup>542</sup> Judges serve for one year but may be removed if they make statements which 'endanger national security'.<sup>543</sup> Bail will not be granted in NSL cases unless a judge is satisfied the individual will 'not continue to commit acts endangering national security'.<sup>544</sup>

**Colonial-era 'sedition laws' have also been applied in the wake of civil unrest.** The crime of sedition is contained in section 9 and 10 of the Crimes Ordinance as a criminal offence that prohibits 'any act with a seditious intention, to utter any seditious words, or to print, publish, or display any seditious publications'.<sup>545</sup> While sedition laws are separate from the NSL, in practice, Hong Kong courts have ruled in favour of their linked, or 'tandem' consideration with national security offences<sup>546</sup> which has had implications for further legal procedures such as bail applications.<sup>547</sup> It is estimated around 35 individuals have been arrested under sedition laws as at June 2022<sup>548</sup> and approximately 11 individuals sentenced to terms of imprisonment for sedition offences in 2022.<sup>549</sup> Data reported by *Hong Kong Free Press*<sup>550</sup> and the *South China Morning Post* in June 2022 indicated an increase in use of arrests for sedition offences, outweighing those arrested under the NSL.<sup>551</sup>

### Implementation

**Hundreds of individuals have been arrested under the NSL since its imposition although precise estimates vary.** Official statistics reported by the media in April 2023 indicates 249 people have been arrested 'over suspected acts and activities that endangered national security,' 149 individual and five companies charged, and 29 people have been convicted or awaiting sentence under the NSL.<sup>552</sup> Information regarding the circumstances and status of those arrested individuals is contained in reliable sources including advocacy organisations, China File<sup>553</sup> and Human Rights in

security case to date in which dozens of pro-democracy politicians face up to life in prison.' 'Non-jury trial ordered for Hong Kong's 47 democrats national security case', AFP, Hong Kong Free Press, 17 August 2022, 20220817153806

<sup>542</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 44, 20230413124559

<sup>543</sup> 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, section F1, 20230310092826

<sup>544</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 14, 20230413124559

<sup>545</sup> 'After Hong Kong activist Tam Tak-chi's conviction, we still don't know what is or is not seditious', Angeline Chan, Hong Kong Free Press, 5 March 2022, 20220307102613

<sup>546</sup> 'Hong Kong court denies bail to woman charged under sedition law over social media posts', Hillary Leung, Hong Kong Free Press, 29 March 2023, 20230405132846; 'Colonial wine from new, authoritarian bottles': Hong Kong re-tools sedition law', Greg Torode and James Pomfret, Reuters, 11 January 2022, 20220629095427; 'Stringent national security bail threshold applicable to other offences. Hong Kong's top court rules', Hong Kong Free Press, 14 December 2021, 20211215093058

<sup>547</sup> 'Stringent national security bail threshold applicable to other offences. Hong Kong's top court rules', Hong Kong Free Press, 14 December 2021, 20211215093058; 'Hong Kong court denies bail again to preacher facing sedition charges', Hong Kong Free Press, 5 July 2022, 20220706090727; 'Hong Kong court denies bail to man charged over seditious online messages and possession of weapons', Peter Lee, Hong Kong Free Press, 1 July 2022, 20220701101001; 'Hong Kong court denies bail for man accused of publishing seditious posts on Instagram', Peter Lee, Hong Kong Free Press, 30 June 2022, 20220701101105; 'Hong Kong court adjourns sedition case against martial arts coach to July, assistant denied bail', Hong Kong Free Press, 19 May 2022, 20220523105855; 'Ex-editors of Stand News officially charged under Hong Kong's anti-sedition law, denied bail', Kelly Ho, Hong Kong Free Press, 29 December 2021, 20211231104654;

<sup>548</sup> 'Explainer: Hong Kong's national security crackdown - month 23', Hong Kong Free Press, 1 June 2022, 20220602131328; Hong Kong Free Press has noted in subsequent monthly updates that the Security Bureau had ceased providing separate figures for sedition offences, see 'Explainer: Hong Kong's national security crackdown - month 27', Hong Kong Free Press, 2 October 2022, 20221004170306

<sup>549</sup> 'Amnesty International Report 2022/23: The state of the world's human rights', Amnesty International, 27 March 2023, p. 127, 20230328142801

<sup>550</sup> '2 years of Hong Kong's national security law - explained in data', Lea Mok, Hong Kong Free Press, 30 June 2022, 20220701100548

<sup>551</sup> '1 in 5 arrests by Hong Kong's national security police made under colonial-era sedition offence instead of 4 crimes laid out in Beijing-imposed law', Natalie Wong and Chris Lau, South China Morning Post, 5 July 2022, 20220708100707

<sup>552</sup> Regarding the latter, authorities report 67 people in total are facing convictions, however 29 are under the NSL, 'Explainer: Hong Kong's national security crackdown - month 33', Hong Kong Free Press, 3 April 2023, 20230405133338; see also for NGO collected data until 31 December 2022, published 27 March 2023, ,

<sup>553</sup> China File updated relevant data up to 31 December 2022: Tracking the Impact of Hong Kong's National Security Law, China File, 26 March 2023, 20230413115137; for previous analysis, see, 'Arrest Data Show National Security Law Has Dealt a Hard Blow to Free Expression in Hong Kong', Eric Yan-ho Lai and Thomas Kellogg, China File, 5 April 2022, 20220420103639

China,<sup>554</sup> government<sup>555</sup> and media sources.<sup>556</sup> Charges for NSL offences appear to have followed arrests in the majority of cases.<sup>557</sup> Individuals charged with national security offences have faced difficulty securing bail, and some may be granted bail with strict conditions.<sup>558</sup> Authorities reportedly have a watch list of residents under investigation for allegedly violating the NSL and they are to be intercepted and arrested if they attempt to leave Hong Kong. At the time of reporting in June 2021, the list purportedly included more than 50 people released on bail,<sup>559</sup> and no equivalent reporting has been made since.<sup>560</sup>

The trial of the first person charged under the NSL proceeded without a jury. Tong Ying-kit is the first person to be charged under the NSL after being charged with inciting secession and engaging in terrorism when he apparently rode a motorcycle which carried a black flag with Chinese characters stating the slogan, "Liberate Hong Kong; revolution of our times" during a 1 July 2020 protest.<sup>561</sup> The case was heard without a jury, and instead by a panel of three judges.<sup>562</sup> Yong-kit pled not guilty and was sentenced to nine years jail.<sup>563</sup> He dropped his appeal of the sentence in January 2022 for unknown reasons.<sup>564</sup> The judgment held further significance in finding that the slogan on his flag was 'ultimately a call for secession,' and the Hong Kong government formally stated it was a 'pro-independence expression.'<sup>565</sup> Further NSL convictions have followed including of activists and

<sup>554</sup> 'Hong Kong Timeline 2019-2022: Anti-Extradition Protests & National Security Law', Human Rights in China (HRIC), 16 May 2022, 20230413114011

<sup>555</sup> 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2021', United Kingdom Foreign, Commonwealth and Development Office, 13 December 2021, 20211217133628; 'THE SIX-MONTHLY REPORT ON HONG KONG - 1 JULY TO 31 DECEMBER 2021', Foreign and Commonwealth Office (UK), 30 March 2022, 20220404091420; 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JULY TO 31 DECEMBER 2020', United Kingdom Foreign, Commonwealth and Development Office, 10 June 2021, 20220629141537

<sup>556</sup> '2 years of Hong Kong's national security law – explained in data', Lea Mok, Hong Kong Free Press, 30 June 2022, 20220701100548; Hong Kong Free Press provides monthly updates which are available on CISNET, see the most recent at 'Explainer: Hong Kong's national security crackdown – month 33', Hong Kong Free Press, 3 April 2023, 20230405133338 and for archives of monthly updates, see <https://hongkongfp.com/tag/national-security-explainer/>

<sup>557</sup> 'Tracking the Impact of Hong Kong's National Security Law', China File, 26 March 2023, 20230413115137; 'Arrest Data Show National Security Law Has Dealt a Hard Blow to Free Expression in Hong Kong', Eric Yan-ho Lai and Thomas Kellogg, China File, 5 April 2022, 20220420103639; 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2021', United Kingdom Foreign, Commonwealth and Development Office, 13 December 2021, p. 18, 20211217133628; 'LCQ14: Statistics on criminal cases', Hong Kong: Government of, 27 April 2022, 20220629095653

<sup>558</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, pp. 6 – 7, 20230321165832; '2 years of Hong Kong's national security law – explained in data', Lea Mok, Hong Kong Free Press, 30 June 2022, 20220701100548; 'Explainer: Hong Kong's national security crackdown – month 20', Hong Kong Free Press, 3 March 2022, 20220304152454; 'Assumed as criminals: Hong Kong defendants find bail elusive', Suzanne Sataline, AI Jazeera, 26 January 2022, 20220128105915

<sup>559</sup> 'Hong Kong national security police have watch list of residents to be arrested if they try to flee, sources say', South China Morning Post, 28 June 2021, 20210629091725

<sup>560</sup> COISS conducted targeted searches in CISNET, COI databases, open source search engines, government sources and media sources. Freedom House and the US Department of State reported, generally, for 2022 that Hong Kong police are reported to maintain such a watchlist, see 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, section G, 20230310092826 and '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, pp. 25 - 26, 20230321165832;

<sup>561</sup> The slogan was coined by activist Edward Leung in 2016 and commonly used during the anti-extradition bill protests and unrest of 2019, 'Hong Kong pro-democracy activist found guilty under colonial-era sedition law over speech, slogans', Candice Chau, Hong Kong Free Press, 1 March 2022, 20220303091457; 'Freedom in the World 2022 - Hong Kong', Freedom House, 24 February 2022, section F1, 20220225090200; 'National security law: protest slogan 'Liberate Hong Kong' can have multiple meanings, but is it ultimately a call for secession?', South China Morning Post, 28 July 2021, 20210728105944

<sup>562</sup> '3 HK judges ruling first NSL case threatened: city's legal practitioners express strong condemnation', Global Times, 28 July 2021, 20210729140613; 'Hong Kong's First Trial Under National Security Law Hears Closing Arguments', VOA News, 20 July 2021, 20210722154725

<sup>563</sup> 'Hong Kong Timeline 2019-2022: Anti-Extradition Protests & National Security Law', Human Rights in China (HRIC), 16 May 2022, 20230413114011

<sup>564</sup> 'First Hong Kong activist jailed under national security law drops appeal in 'surprise' move', Kelly Ho, Hong Kong Free Press, 13 January 2022, 20220114091701

<sup>565</sup> 'National security law: protest slogan 'Liberate Hong Kong' can have multiple meanings, but is it ultimately a call for secession?', South China Morning Post, 28 July 2021, 20210728105944; 'National security law: scholars, legal experts warn 'Liberate Hong Kong' slogan 'very risky' in wake of secession conviction', South China Morning Post, 29 July 2021, 20210729113416; 'Activist Tong Ying-kit jailed for 9 years in Hong Kong's first national security case', Kelly Ho, Hong Kong Free Press, 30 July 2021, 20220629100734; 'Tong Ying-kit's 9 year NSL sentence sets a grim precedent that will open the path to further arrests, prosecutions, and political trials', Hong Kong Watch, 30 July 2021, 20220629100946; 'The End of Free Speech in Hong Kong', The Atlantic, 27 July 2021, 20210728115243; 'Hong Kong: Sentencing of Tong Ying-kit deals a hammer blow to free speech', Amnesty International, 30 July 2021, 20220629101059

students for a range of offences.<sup>566</sup> The largest national security trial involve the '47 Democrats' commenced on 6 February 2023 and is ongoing.<sup>567</sup>

**The first sedition sentence since 1967 was handed down in January 2022.** Hong Kong Basic Law provides for rights such as the presumption of innocence, right to a fair trial and judicial independence.<sup>568</sup> However, the judicial procedures for sedition offences have been conducted similarly to NSL trials. The first conviction<sup>569</sup> was made in relation to Kim Chiang Chung-sang who pled guilty to the offences after displaying posters in connection with the 2019 protests.<sup>570</sup> Further convictions followed in the same month for two individuals for conspiring to distribute leaflets advocating Hong Kong independence, and for putting up posters insulting judges involved in NSL trials respectively.<sup>571</sup> In March 2022, the first sedition case was heard in which the defendant, activist Tam Tak-chi, pled not guilty;<sup>572</sup> he was convicted in April 2022 and sentenced to 40 months imprisonment.<sup>573</sup> The conviction attracted criticism over Tam's use of protest slogans<sup>574</sup> which, according to the judgment, was not protected by the right to freedom of expression contained in Hong Kong Basic Law.<sup>575</sup> Further convictions for sedition, and sedition related offences, have followed.<sup>576</sup>

**The NSL has had wide ranging effects in relation to the exercise of civil and political rights in Hong Kong.** The NSL has been used to monitor individuals including online<sup>577</sup> with intermittent reports of government censorship or blocking of certain websites,<sup>578</sup> and wide self-censorship on

<sup>566</sup> Please see *China File* for a list of NSL convictions as of 31 December 2022, and consult CISNET for ongoing case update, [Tracking the Impact of Hong Kong's National Security Law](#), China File, 13 March 2023, 20230413115137

<sup>567</sup> [Explainer: Hong Kong's national security crackdown – month 32](#), Hong Kong Free Press, 5 March 2023, 20230307154814; see CISNET for latest updates

<sup>568</sup> [The Constitution of the People's Republic of China - The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China](#), Government of Hong Kong, 1 May 2021, articles 85 and 87, 20220303123135

<sup>569</sup> Noting that a previous conviction was recorded in relation to Hui Pui-ye for 'conspiracy to commit a seditious act' (among other offences) in April 2021, [China Media Bulletin - Issue No. 153: April 2021](#), Freedom House, 31 March 2021, 20210428093029; [Hong Kong man, woman jailed on sedition charges for insulting judges, advocating independence](#), Brian Wong, South China Morning Post, 30 January 2022, 20220201101135

<sup>570</sup> [Hongkonger who displayed posters insulting judges overseeing first national security law trial pleads guilty to sedition](#), Brian Wong, South China Morning Post, 25 January 2022, 20220629102515; [Hong Kong man jailed for 8 months in first sedition sentencing since 1967 leftist riots](#), Selina Cheng, Hong Kong Free Press, 31 January 2022, 20220629102817; [Hong Kong sees first 'seditious publication' jailings since handover](#), France 24, 30 January 2022, 20220629102931

[China Media Bulletin - February 2022](#), Freedom House, 22 February 2022, p. 10, 20220224095749

<sup>571</sup> [Hong Kong man, woman jailed on sedition charges for insulting judges, advocating independence](#), Brian Wong, South China Morning Post, 30 January 2022, 20220201101135

<sup>572</sup> [Hong Kong DJ Convicted of Sedition in Watershed Trial](#), Voice of America (VOA), 1 March 2022, 20220307101441; [Hong Kong pro-democracy activist found guilty under colonial-era sedition law over speech, slogans](#), Candice Chau, Hong Kong Free Press, 1 March 2022, 20220303091457

<sup>573</sup> [Tam Tak-Chi's sedition sentencing "points to a growing trend towards criminalising all forms of dissent in Hong Kong"](#), Hong Kong Watch, 20 April 2022, 20220513103732; [Hong Kong activist jailed for sedition in first case since 1997 handover](#), Reuters, 20 April 2022, 20220629103336

<sup>574</sup> The sedition charges related to remarks made in January, March and July 2020 including the protest slogan, 'liberate Hong Kong, revolution of our times', [Hong Kong opposition activist Tam Tak-chi denied bail by the High Court in sedition case](#), South China Morning Post, 17 September 2020, 20200917152918; The NSL case of Tong Ying-kit which ruled the slogan was secessionist was ruled non-binding but was "instructional, convincing and applicable", [High Court ruling involving Hong Kong protest slogan not binding in sedition case, judge says](#), Natalie Wong, South China Morning Post, 29 July 2021, 20220629103110

<sup>575</sup> [Tam Tak-Chi's sedition sentencing "points to a growing trend towards criminalising all forms of dissent in Hong Kong"](#), Hong Kong Watch, 20 April 2022, 20220513103732; [After Hong Kong activist Tam Tak-chi's conviction, we still don't know what is or is not seditious](#), Angeline Chan, Hong Kong Free Press, 5 March 2022, 20220307102613; [Hong Kong's Sedition Law Is Back](#), Eric Lai, The Diplomat, 3 September 2021, 20220629103516

<sup>576</sup> Please see *China File* for a list of sedition-related convictions as of 31 December 2022, and consult CISNET for ongoing case updates, [Tracking the Impact of Hong Kong's National Security Law](#), China File, 13 March 2023, 20230413115137

<sup>577</sup> [2022 Country Reports on Human Rights Practices - Hong Kong](#), United States Department of State, 20 March 2023, p. 20, 20230321165832; [Freedom in the World 2023 - Hong Kong](#), Freedom House, 9 March 2023, section D4, 20230310092826 [The Impact of the National Security Law on Media and Internet Freedom in Hong Kong](#), Freedom House, 18 October 2021, 20220629093844;

<sup>578</sup> [2022 Country Reports on Human Rights Practices - Hong Kong](#), United States Department of State, 20 March 2023, p. 20, 20230321165832; [Explainer: Hong Kong's national security crackdown – month 23](#), Hong Kong Free Press, 1 June 2022, 20220602131328; [Hong Kong rights group says website not accessible through some networks](#), Reuters, 14 February 2022, 20220216102159; [How China's national security law threatens Hong Kong's internet freedom](#), Deutsche Welle, 17 February 2021, 20210302114755; [HONG KONG POLICE USE NATIONAL SECURITY LAW TO BLOCK SITE CHRONICLING 2019 PROTESTS](#), China Digital Times (CDT), 10 January 2021, 20210112132247; [Hong Kong Watch and ARTICLE 19 Joint Submission to the UN Human Rights Committee in advance of its fourth review of Hong Kong, China](#), Hong Kong Watch, 1 May 2022, p. 16, 20220629094813

social media.<sup>579</sup> The authorities have prohibited certain films,<sup>580</sup> removed 'sensitive' books from public libraries and restricted from sale or display.<sup>581</sup> In September 2022, five members of the General Union of Hong Kong Speech Therapists were convicted of 'conspiring to print, publish, distribute or display seditious publications'<sup>582</sup> and sentenced to nineteen months imprisonment.<sup>583</sup> The seditious publication was in the form of children's books which 'depicted Hong Kong political events using sheep and wolves'<sup>584</sup> which were found to 'spread separatism and incite hatred against the authorities'.<sup>585</sup> Political cartoonists and other visual artists have left Hong Kong citing the impact of the NSL on their freedom of creative expression, and their fear of arrest and prosecution, as their reason for departure.<sup>586</sup> Public gatherings common prior to the NSL imposition have largely ceased including the vigil commemorating the Tiananmen Square massacre,<sup>587</sup> and anniversary of the handover of

<sup>579</sup> 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, section D4, 20230310092826; 'The Impact of the National Security Law on Media and Internet Freedom in Hong Kong', Freedom House, 18 October 2021, 20220629093844

<sup>580</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, p. 22, 20230321165832; 'Hong Kong: Submission to the UN Committee on Economic, Social and Cultural Rights (2023)', Amnesty International, 17 January 2023, p. 10, 20230118112538; 'Human Rights Watch World Report 2023', Human Rights Watch (HRW), 12 January 2023, p. 150, 20230112144355; 'Screening of Taiwanese documentary axed at Hong Kong film festival after censors request removal of protest scenes', Lea Mok, Hong Kong Free Press, 24 October 2022, 20221026165605; 'Screening of Batman film scrapped after Hong Kong censors say it is 'not appropriate' for outdoor showing', Hong Kong Free Press, 20 October 2022, 20221024132444; 'THE SIX-MONTHLY REPORT ON HONG KONG - 1 JULY TO 31 DECEMBER 2021', Foreign and Commonwealth Office (UK), 30 March 2022, 20220404091420; 'Hong Kong bans movies deemed 'subversive' or 'romanticizing' protests', Radio Free Asia (RFA), 26 October 2021, 20211028130816; 'Hong Kong creative industry 'shrouded in worries and fears' amid chilling effect of 'red lines' under national security law', South China Morning Post, 25 August 2021, 20210825145031; 'Kiwi Chow's film cannot be named in Hong Kong. But Revolution of Our Times is empowering the diaspora in Australia', Wing Kuang, ABC News (Australia), 2 June 2022, 20220602121846; 'Exclusive | Hong Kong police chief warns viewers to avoid documentary about city's social unrest over concerns of possible national security violations', Christy Leung, South China Morning Post, 7 June 2022, 20220607101436

<sup>581</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, pp. 21 - 22, 20230321165832; 'Hong Kong: Submission to the UN Committee on Economic, Social and Cultural Rights (2023)', Amnesty International, 17 January 2023, p. 101 20230118112538; 'Human Rights Watch World Report 2023', Human Rights Watch (HRW), 12 January 2023, p. 150, 20230112144355; 'Democracy books disappear from Hong Kong libraries', Agence France Presse (AFP) - France, 4 July 2020, 20200706083549; 'Hong Kong libraries see pro-democracy books removed after national security law introduced', ABC News (Australia), 6 July 2020, 20200706130406; 'Books pulled from library shelves, songs banned...it's the new normal in Hong Kong', Louisa Lim (University of Melbourne), Guardian, 2 August 2020, 20200803115751; 'Hong Kong book fair sees self-censorship and fewer books', AP News, 15 July 2021, 20210715102513; 'National security law: inquiry launched after books by Jimmy Lai displayed as recommended titles at Hong Kong public library', South China Morning Post, 25 June 2021, 20210625091836; 'Hong Kong librarian suspended after books by jailed Apple Daily founder Jimmy Lai put on recommended reading shelf', South China Morning Post, 1 July 2021, 20210702093625

<sup>582</sup> '5 Hong Kong speech therapists found guilty of sedition over children's books', Kelly Ho, Hong Kong Free Press, 7 September 2022, 20220908160146; 'Hong Kong: Children's Book Authors Convicted', Human Rights Watch (HRW), 7 September 2022, 20220909152442; 'Hong Kong: Conviction of children's book publishers an absurd example of unrelenting repression', Amnesty International, 7 September 2022, 20220908160335

<sup>583</sup> 'Hong Kong speech therapists sentenced to 19 months for books', AP News, 10 September 2022, 20220912124207; '5 Hong Kong speech therapists jailed for 19 months each for sedition over children's books', Kelly Ho, Hong Kong Free Press, 10 September 2022, 20220912124036

<sup>584</sup> 'THE SIX-MONTHLY REPORT ON HONG KONG - 1 JULY TO 31 DECEMBER 2021', Foreign and Commonwealth Office (UK), 30 March 2022, p. 21, 20220404091420; 'Hong Kongers arrested for sedition over children's books', UCA News (UCAN), 22 July 2021, 20210723091323

<sup>585</sup> '5 Hong Kong speech therapists found guilty of sedition over children's books', Kelly Ho, Hong Kong Free Press, 7 September 2022, 20220908160146

<sup>586</sup> 'Third political cartoonist leaves Hong Kong in less than 7 weeks, citing shrinking artistic freedom', Almond Li, Hong Kong Free Press, 6 June 2022, 20220607101715; 'Ex-visual arts teacher and political cartoonist leaves Hong Kong citing fear of sedition arrest', Kelly Ho, Hong Kong Free Press, 30 May 2022, 20220530113235; 'Political cartoonist Ah To announces departure from Hong Kong citing 'great mental stress'', Kelly Ho, Hong Kong Free Press, 26 April 2022, 20220427162912; '4 members of Hong Kong Arts Development Council resign, with one citing 'personal safety' concerns', South China Morning Post, 7 August 2021, 20210811095917; 'Artists fear Hong Kong 'cultural purge' is next as Carrie Lam issues ominous warning to new museum', Independent, 19 March 2021, 20210323155811

<sup>587</sup> 'Police patrol Hong Kong park to enforce Tiananmen vigil ban', Zen Soo, AP News, 5 June 2022, 20220606101050; 'In Pictures: High security, arrests and mini acts of defiance as Hong Kong seeks to thwart Tiananmen crackdown commemorations', Hong Kong Free Press, 4 June 2022, 20220606100122; 'Int'l groups to mark anniversary of Tiananmen crackdown as public vigils in Hong Kong expected to be muted', Almond Li, Hong Kong Free Press, 27 May 2022, 20220629095234; 'Hongkongers warned not to 'test police' during Tiananmen crackdown anniversary, as force reports calls to join unauthorised assembly', Almond Li, Hong Kong Free Press, 2 June 2022, 20220603085328; 'Hong Kong's Lam invokes security law when asked about legality of remembering Tiananmen dead', Hong Kong Free Press, 31 May 2022, 20220531150459; 'THE SIX-MONTHLY REPORT ON HONG KONG - 1 JULY TO 31 DECEMBER 2021', Foreign and Commonwealth Office (UK), 30 March 2022, p. 25, 20220404091420; 'China: Tiananmen vigil events across globe in solidarity with Hong Kong', Amnesty International, 26 May 2022, 20220527083654; 'Hong Kong activist detained amid Tiananmen vigil clampdown', Deutsche Welle, 4 June 2021, 20210608100314; 'Hong Kong police ban city's annual Tiananmen Square vigil for first time in 30 years, citing Covid-19 threat', South China Morning Post, 1 June 2020, 20200602114002. 'Illegal' commemorations in 2020 resulted in the arrest and jailing of participants and convenors, 'Hong Kong citizens defy coronavirus restrictions to stage multiple Tiananmen Square massacre memorials', ABC News (Australia), 5 June 2020, 20200605105828; 'Hong Kong police investigate organisers of Tiananmen Square vigil', The Guardian, 26 August 2021, 20210902135733; 'Hong Kong police ban city's annual Tiananmen Square vigil for first time in 30 years, citing Covid-19 threat', South China Morning

Hong Kong to the PRC by the British.<sup>588</sup> Independent civil society groups have disbanded or relocated since imposition of NSL<sup>589</sup> including pro-democracy groups,<sup>590</sup> trade unions,<sup>591</sup> student unions,<sup>592</sup> and international organisations.<sup>593</sup>

**Press freedom has declined significantly since imposition of the NSL.** The 2022 Reporters sans Frontières (RSF, or Reporters without Borders) World Press Freedom Index ranked Hong Kong 148 out of 180 countries, a decrease from 80 out of 180 countries in the previous year.<sup>594</sup> Government pressure and the application of NSL on independent media outlets has restricted freedom of expression and information in Hong Kong.<sup>595</sup> The government rejects this notion, arguing that 'national security' and 'public safety' take precedence.<sup>596</sup> The once independent public broadcaster, Radio Television Hong Kong (RTHK) has been subject to restructuring and state media control.<sup>597</sup> Some public television and radio broadcasters are required to air a minimum of thirty minutes weekly of 'patriotic and national security programming'.<sup>598</sup> Major pro-democracy newspaper *Apple Daily*

Post, 1 June 2020, 20200602114002; 'Joshua Wong among Hong Kong activists jailed over Tiananmen Square rally', Independent, 6 May 2021, 20210521124420; 'Thousands in Hong Kong Defy Ban by Holding Tiananmen Vigil', Bloomberg, 4 June 2020, 20200605080242

<sup>588</sup> 'Hong Kong 25th anniversary set to be protest-free, after nat. security police call in activist group volunteers', Hong Kong Free Press, 28 June 2022, 20220629090011

<sup>589</sup> 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, section E2, 20230310092826; 'Hong Kong: Submission to the UN Human Rights Committee 135th Session, 27 June 2022 - 29 July 2022', Amnesty International, 31 May 2022, p. 11, 20220601092851; 'CCP crushing Hong Kong civil society', Kong Tsung-gan, Safeguard Defenders, 23 January 2022, 20220629111732; Timeline: 58 Hong Kong civil society groups disband following the onset of the security law, Hong Kong Free Press, 30 June 2022, 20220701093855; 2021 Country Reports on Human Rights Practices: China (Includes Hong Kong, Macau, and Tibet) - Hong Kong, United States Department of State, 12 April 2022, p. 25, 20220513112017

<sup>590</sup> 'Hong Kong: Closure of prominent rights group signals worrying domino effect', Amnesty International, 15 August 2021, 20210906104521; THE SIX-MONTHLY REPORT ON HONG KONG - 1 JULY TO 31 DECEMBER 2021, Foreign and Commonwealth Office (UK), 30 March 2022, p. 27, 20220404091420; 'CHRF: Hong Kong group behind huge democracy rallies disbands', Al Jazeera, 15 August 2021, 20210823170536; 'China Says Hong Kong Crackdown "Must Continue" After Vigil Organizer Disbands', Radio Free Asia (RFA), 27 September 2021, 20210928100304

<sup>591</sup> 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, section E3, 20230310092826; 'Hong Kong: Submission to the UN Committee on Economic, Social and Cultural Rights (2023)', Amnesty International, 17 January 2023, p. 7, 20230118112538; 'Human Rights Watch World Report 2023', Human Rights Watch (HRW), 12 January 2023, p. 150, 20230112144355; 'Trade unions must now declare they will not "endanger national security" to register in Hong Kong', Hillary Leung, Hong Kong Free Press, 17 September 2022, 20220919160209; 'Disbanded Hong Kong teachers' union faces further state media attacks: Confederation of Trade Unions in crosshairs', Hong Kong Free Press, 11 August 2021, 20210812123614; 'Hong Kong's Professional Teachers' Union saw no choice but to "disband after Beijing emissaries warned it could no longer exist", South China Morning Post, 12 August 2021, 20210813112522; 'China Is Dismantling Hong Kong's Unions', Human Rights Watch, 22 September 2021, 20211013134544

<sup>592</sup> 'PolyU becomes fifth Hong Kong university to fully cut ties with students' union', Lea Mok, Hong Kong Free Press, 20 April 2022, 20220420102119; see also THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2021, United Kingdom Foreign, Commonwealth and Development Office, 13 December 2021, p. 28, 20211217133628; 'In Hong Kong, a Once Liberal University Feels Beijing's Weight', Karen Cheung, Foreign Policy, 22 May 2022, 20220602123222;

<sup>593</sup> 'Amnesty to close Hong Kong offices over National Security Law', BBC News, 24 October 2021, 20211026094419; 'Amnesty shuts Hong Kong office, ceases social media updates', The Standard, 31 October 2021, 20211102094418; 'Hong Kong's National Security Law Made Amnesty International's Departure All But Inevitable', ChinaFile, 5 December 2021, 20211207115921; Hong Kong Watch have received legal notification of their activities and have refused to disband, 'Security Bureau threatens UK-based Hong Kong Watch founder with life imprisonment. NGO says it won't disband', Hong Kong Free Press, 13 March 2022, 20220315090347

<sup>594</sup> 'Reporters Without Borders - World Press Freedom Index - Hong Kong', Reporters sans Frontières also Reporters Without Borders (RSF), 3 May 2022, 20220504153703, see also The Great Leap Backwards of Journalism in China, Reporters sans Frontières also Reporters Without Borders (RSF) - France, 6 December 2021, p. 28 - 29, 20211208111948

<sup>595</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, pp. 14 - 19, 20230321165832; 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, section D1, 20230310092826; 'Explainer: The decline of Hong Kong's press freedom under the national security law (Dec 2022 Update)', Candice Chau, Hong Kong Free Press, 9 December 2022, 20221212142013; 'Hong Kong: New Hong Kong report calls China to account for gutting media', International Federation Of Journalists (IFJ), 13 October 2022, 20221020171355; 'Lights Out - Is this the end for Hong Kong's Media?', International Federation Of Journalists (IFJ), 9 February 2022, full text, 20220211131822; 'Freedom in Tatters', Hong Kong Journalists Association, 22 July 2021, full text, 20210722151951;

<sup>596</sup> 'National security law: Hong Kong slams overseas coalition for "totally erroneous statement" on press freedom', Christy Leung, South China Morning Post, 9 February 2022, 20220210172617; 'Hong Kong's Carrie Lam rebuffs claims of press freedom "chilling effect," says closure of media outlets unrelated to security law', Hong Kong Free Press, 3 January 2022, 20220105092830; 'Hong Kong editors charged with sedition. US criticizes raid', Zen Soo, AP News, 29 December 2021, 20211231104448

<sup>597</sup> 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, section D1, 20230310092826; 'Hong Kong taxpayer-funded broadcaster should "cooperate seamlessly" with gov't dept's, police, says RTHK chief', Candice Chau, Hong Kong Free Press, 9 November 2022, 20221111141314; 'Hong Kong: RSF concerned by future "partnership" between public broadcaster RTHK and Chinese state media', Reporters without Borders, 10 August 2021, 20210811085040; 'Journalists Sound Alarm Over New Guidelines For Radio Television Hong Kong', Radio Free Asia (RFA), 30 September 2021, 202110011150727

<sup>598</sup> 'Hong Kong Media Bulletin - Issue No. 4 - February 2023 - Trial of prodemocracy activists, foreign tech self-censorship, the Points news outlet launches', Freedom House, 27 February 2023, 20230307123232; 'Hong Kong's free-to-air broadcasters

ceased operations in June 2021<sup>599</sup> following the arrest of its founder Jimmy Lai<sup>600</sup> in August 2020,<sup>601</sup> the freezing of its assets in May 2021,<sup>602</sup> and arrest of other staff in June 2021<sup>603</sup> Pro-democracy outlet, *Stand News*, was raided in December 2021 after which seven staff were arrested and charged with sedition offences, and the company assets frozen.<sup>604</sup> *Stand News* shortly dismissed all staff and removed all their web and social media content.<sup>605</sup> The closure of *Citizen News* followed in January 2022, citing safety concerns for their staff members and noting they could no longer 'gauge where the legal boundaries were' in reporting.<sup>606</sup> International media has also been censored or ceased operations, and foreign journalists denied Hong Kong visas.<sup>607</sup>

**Government authorities have imposed requirements in civil service and education to promote and comply with the NSL.** All 180,000 civil servants are required to pledge allegiance to Hong Kong and the Basic Law,<sup>608</sup> and may be required to pass tests on the national security law.<sup>609</sup> In June 2022, Hong Kong authorities confirmed that about 180,000 civil servants had signed the declaration, and 129 civil servants and 535 other government workers have been dismissed or resigned after failing to swear the oath of allegiance.<sup>610</sup> Education authorities have issued guidelines to bring public schools in line with the NSL and to promote patriotic values. The guidelines cover every aspect of schooling,

ordered to transmit 30-mins of patriotic and security programming per week', Tom Grundy, Hong Kong Free Press, 14 February 2023, 20230215140513

<sup>599</sup> 'Security law 'weaponized' to target Hong Kong activists', UCA News (UCAN), 30 June 2021, 20210701092750; 'With Hong Kong's Apple Daily Closed, Media Question Security Law's Reach', VOA News, 27 June 2021, 20210628082551

<sup>600</sup> Jimmy Lai has been charged with national security, sedition and other criminal offences, and legal proceedings against him are at various stages; please consult the National Security Law Thematic Brief for background, and CISNET for updates.

<sup>601</sup> 'Hong Kong national security police have watch list of residents to be arrested if they try to flee, sources say', South China Morning Post, 28 June 2021, 20210629091725; 'With Hong Kong's Apple Daily Closed, Media Question Security Law's Reach', VOA News, 27 June 2021, 20210628082551; 'Assumed as criminals': Hong Kong defendants find bail elusive', Suzanne Sataline, Al Jazeera, 26 January 2022, 20220128105915

<sup>602</sup> 'Security law 'weaponized' to target Hong Kong activists', UCA News (UCAN), 30 June 2021, 20210701092750; 'Hong Kong national security police have watch list of residents to be arrested if they try to flee, sources say', South China Morning Post, 28 June 2021, 20210629091725; 'With Hong Kong's Apple Daily Closed, Media Question Security Law's Reach', VOA News, 27 June 2021, 20210628082551

<sup>603</sup> 'Security law 'weaponized' to target Hong Kong activists', UCA News (UCAN), 30 June 2021, 20210701092750; 'Hong Kong national security police have watch list of residents to be arrested if they try to flee, sources say', South China Morning Post, 28 June 2021, 20210629091725; 'With Hong Kong's Apple Daily Closed, Media Question Security Law's Reach', VOA News, 27 June 2021, 20210628082551

<sup>604</sup> 'Hong Kong's Stand News shuts down after national security police arrest 7, freeze HK\$61 million in assets', South China Morning Post, 28 December 2021, 20211230105812; 'Hong Kong police raid Stand News, arrest 6 for alleged sedition', Committee to Protect Journalists (CPJ), New York, 27 December 2021, 20211230104549; 'Stand News closes, content deleted following arrests and police raid: Chief Sec. slams 'evil elements'', Hong Kong Free Press, 28 December 2021, 20211230110628; The trials for two journalists associated with *Stand News* commenced in October 2022 and are ongoing, see 'Stand News sedition trial: Testimony of ex-chief editor ends after 36 days as closing arguments set for June', Hillary Leung, Hong Kong Free Press, 4 April 2023, 20230405131022; '17 Stand News articles accepted as evidence in sedition trial against Hong Kong outlet', Lea Mok, Hong Kong Free Press, 1 November 2022, 20221108112010; 'Hong Kong journalists plead not guilty to sedition as trial against defunct outlet Stand News begins', Lea Mok, Hong Kong Free Press, 31 October 2022, 20221101141056

<sup>605</sup> 'Hong Kong's Stand News shuts down after national security police arrest 7, freeze HK\$61 million in assets', South China Morning Post, 28 December 2021, 20211230105812

<sup>606</sup> 'No other choice': Hong Kong Citizen News says decision to close was prompted by Stand News arrests, staff safety', Hong Kong Free Press, 2 January 2022, 20220104102406

<sup>607</sup> 'Coconuts winds down Hong Kong news site after a decade, citing 'journalistic and commercial challenges'', Tom Grundy, Hong Kong Free Press, 10 March 2023, 20230313113917; 'Hong Kong Media Bulletin 2023: Tiananmen vigil convictions, Oscars controversy, new diaspora outlet', Freedom House, 4 March 2023, 20230405134348; 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, section D1, 20230310092826; 'Hong Kong's TVB streaming service to drop BBC channels', Tom Grundy, Hong Kong Free Press, 8 January 2023, 20230109163852; 'Lights Out - Is this the end for Hong Kong's Media?', International Federation Of Journalists (IFJ), 9 February 2022, p. 10, 20220211131822; 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2021', United Kingdom Foreign, Commonwealth and Development Office, 13 December 2021, pp. 26 - 28, 20211217133628; 'Hong Kong Stifles Journalists With Threats, Expulsions a Year After Sweeping Security Law', VOA News, 7 December 2021, 20211209163035; 'Hong Kong has right to decide who gets visas, Beijing says amid criticism of Economist correspondent's rejection', South China Morning Post, 14 November 2021, 20211116115220

<sup>608</sup> 'New requirement for appointment to civil service on or after July 1', Government of Hong Kong, 11 October 2020, 20201209123015; 'Hong Kong civil servants employed from July 1 to be required in writing to swear allegiance, uphold Basic Law', South China Morning Post, 8 July 2020, 20200709125754

<sup>609</sup> Applicable to existing civil servants seeking promotion from 9 February 2022, and all new entrants from 1 July 2022, 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2022', United Kingdom Foreign, Commonwealth and Development Office, 12 January 2023, p. 12, 20230113133343

<sup>610</sup> '129 Hong Kong civil servants sacked or quit after failing to take allegiance oath', Peter Lee, Hong Kong Free Press, 17 June 2022, 20220629112308; see also, 'Hong Kong gov't vows 'more resolute' action against civil servant misconduct', Kelly Ho, Hong Kong Free Press, 17 August 2022, 20220817153713

from management and teaching to pupils' behaviour including off campus.<sup>611</sup> Students from age six are required to receive education on national security legislation,<sup>612</sup> including undertaking the Values Education Curriculum Framework which also includes 'the "correct" understanding of Chinese history, an appreciation of traditional Chinese culture and values, and respect for national symbols, the Chinese Constitution.'<sup>613</sup> Hong Kong authorities have clarified that teachers may be 'held responsible' if they fail to stop NSL violations in schools and are encouraged to call the police for 'serious protest-related activities,' such as 'pupils chanting or displaying slogans, singing political songs or forming human chains.'<sup>614</sup> Hong Kong universities are also subject to obligations to promote national security education.<sup>615</sup> Students at some publicly funded Hong Kong universities are required to undertake compulsory national security education courses.<sup>616</sup> Universities are also required to hold weekly flag raising ceremonies.<sup>617</sup>

<sup>611</sup> 'A year under Hong Kong's national security law: mass arrests, sanctions, a swifter Legco and a defunct newspaper', South China Morning Post, 30 June 2021, 20210701161003

<sup>612</sup> 'Beijing to drill Hong Kong schoolchildren with national security education', Global Voices, 9 February 2021, 20210211160530; see also, 'Hong Kong national security law: officials defend education guidelines against 'malicious' accusations of 'brainwashing'', South China Morning Post, 21 February 2021, 20210302112444; 'No room for debate': Hong Kong outlines security law for schools', Aljazeera, 4 February 2021, 20210216135413; The Education Bureau had also previously distributed a series of 48 books to primary and secondary schools titled, *My Home is in China* to foster a sense of patriotism in students, see 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2021', United Kingdom Foreign, Commonwealth and Development Office, 13 December 2021, p. 29, 20211217133628

<sup>613</sup> 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2021', United Kingdom Foreign, Commonwealth and Development Office, 13 December 2021, p. 29, 20211217133628; 'Schools to add empathy, law-abidingness, diligence and 'loving China and Hong Kong' to moral education', Selina Cheng, Hong Kong Free Press, 30 November 2021, 20220629112849; 'Hong Kong schools must infuse civic, moral values into all subjects under new framework to be revealed soon', South China Morning Post, 29 November 2021, 20211130153348; 'Hong Kong primary pupils must understand constitution, secondary students must 'love motherland' under new values curriculum', South China Morning Post, 29 November 2021, 20211201112315

<sup>614</sup> 'Hong Kong national security law: principals, teachers could be liable for student breaches if they fail to intervene', South China Morning Post, 4 February 2021, 2021030211362

<sup>615</sup> 'Hong Kong universities film classes amid rollout of 'national security education'', Radio Free Asia (RFA), 7 November 2021, 20211109100307; Noting the chief executive serves as the chancellor of all public universities, and local authorities appoint university council members, who are similar to trustees, 'Freedom in the World 2022 - Hong Kong', Freedom House, 24 February 2022, section D3, 20220225090200

<sup>616</sup> 'HKU's national security course explains the law but fails to answer where the red line is drawn, students say', Dawna Fung, Hong Kong Free Press, 3 October 2022, 20221004171021; 'HKU national security course: 10 hours of video viewing and a multiple-choice test to pass, and to graduate', Peter Lee, Hong Kong Free Press, 19 August 2022, 20220822155140; 'Hong Kong's Chinese University to start patriotic 'national security education'', Radio Free Asia (RFA), 16 January 2022, 20220118091407; 'At least 3 Hong Kong universities make national security education compulsory for students', South China Morning Post, 26 July 2021, 20210727095000; 'Hong Kong Polytechnic University leaders say unrest of 2019 is firmly in the past at anniversary celebration', South China Morning Post, 24 November 2021, 20211126094611

<sup>617</sup> 'Hong Kong's CUHK hosts first weekly flag-raising ceremony to 'promote national education'', Lea Mok, Hong Kong Free Press, 15 September 2022, 20220915151830; 'Hong Kong universities must also hold weekly flag-raising ceremonies, education chief reveals', South China Morning Post, 17 October 2021, 20211019115313



Australian Government  
Department of Home Affairs

# Pre-removal clearance 2023

## Thematic Brief

**Country of Origin Information Services Section (COISS)**

Effective from 4 May 2023

### About this product

This research paper was prepared by the Country of Origin Information Services Section (COISS) using open source documents, which have been uploaded to CISNET. It is current at the time of completion.

Should a request to access this document be made under the *Freedom of Information Act 1982*, and/or by anyone who does not have access to CISNET, a decision for its release should be referred COISS via email: @homeaffairs.gov.au.

Table of Contents

s. 22(1)(a)(ii)

|                                                                                              |           |
|----------------------------------------------------------------------------------------------|-----------|
| <b>China (Hong Kong)</b>                                                                     | <b>22</b> |
| Hong Kong Protests                                                                           | 22        |
| The National Security Law                                                                    | 23        |
| Treatment of persons with criminal background, risk of arbitrary detention and unfair trials | 24        |
| Prison and Detention Conditions                                                              | 29        |
| Death Penalty                                                                                | 30        |
| Double Jeopardy                                                                              | 31        |
| Reports of persons being harmed on return for offences committed overseas                    | 31        |
| Additional Reading                                                                           | 31        |

s. 22(1)(a)(ii)

Released by Department of Home Affairs  
under the Freedom of Information Act 1982

## China (Hong Kong)

Hong Kong was a colony of the United Kingdom until 1997. In 1997, Hong Kong was transferred from the United Kingdom to China under an arrangement of the 'one country, two systems'. The laws of Hong Kong are different to those in China.<sup>147</sup>

Political events, civil unrest and legal reforms in the 2019 – 2021 period have seen significant changes to Hong Kong's political and judicial landscape amid closer ties and control by Beijing. Participants in the 2019 and 2020 protests, as well as other actual or perceived pro-democracy individuals and organisations, may be subject to sanction under the new National Security Law.

For up-to-date information on the current situation in Hong Kong, please refer to CISNET.

### Hong Kong Protests

Hong Kong experienced significant civil unrest in both 2019 and 2020. Protests broke out in June 2019 over legislation that would allow extradition to mainland China (the extradition bill was formally withdrawn on 23 October 2019<sup>148</sup>), but evolved into a broader pro-democracy movement.<sup>149</sup> The street protests appear to have largely ceased amid the ongoing legal crackdown against pro-democracy individuals and groups.<sup>150</sup> According to official figures as at August 2022, 10,279 individuals have been arrested over involvement in anti-government protests since June 2019.<sup>151</sup>

In July 2020, former Hong Kong Chief Executive Carrie Lam delayed the elections for the Legislative Council for one year which resulted in hundreds of pro-democracy demonstrators protesting about their voting rights.<sup>152</sup> The reason for the postponement was, according to the Chief Executive, due to the pandemic despite critics stating that the opposition would gain seats if the voting was held as scheduled.<sup>153</sup> In July 2020, 47 opposition figures helped organise a public opinion poll to coordinate pro-democracy candidates for the LegCo election which resulted in charges of subversion.<sup>154</sup> Hundreds of protestors held demonstrations outside the court to support them wearing black, the colour of choice during the 2019 protests, and chanted banned slogans.<sup>155</sup> The Legislative Council elections that did eventually take place in December 2021

<sup>147</sup> 'Hong Kong's Freedoms: What China Promised and How It's Cracking Down', Council on Foreign Relations, 17 February 2021, 20210222132025; 'Beijing says new law is domestic affair, like birthday gift to HK', The Straits Times, 2 July 2020, 20200703100215

<sup>148</sup> 'Hong Kong's 'dead' extradition bill finally buried as government formally withdraws it', South China Morning Post, 23 October 2019, 20191024102010

<sup>149</sup> 'Hong Kong Timeline 2019-2022: Anti-Extradition Protests & National Security Law', Human Rights in China (HRIC), 16 May 2022, 20230413114011

<sup>150</sup> 'How China Dealt a 'Knockout Blow' to Its Opponents in Hong Kong', Tiffany May, The New York Times, 5 February 2023, 20230208093210; 'Explainer: Hong Kong's hollowed-out pro-democracy camp – who's left and what's next?', Hong Kong Free Press, 29 May 2021, 20210811140537

<sup>151</sup> 'Almost 3,000 people, including 517 minors, prosecuted so far over 2019 Hong Kong protests', Kelly Ho, Hong Kong Free Press, 26 October 2022, 20221028125150; see also, 'Hong Kong protests: more than 10,200 arrested in connection with unrest since 2019, government tells lawmakers', Ng Kang-chung, South China Morning Post, 9 April 2021, 20220309140444

<sup>152</sup> 'How China's influence is changing Hong Kong protests', Deutsche Welle, 7 September 2020, 20200921164936

<sup>153</sup> 'Hong Kong police arrest 289 at protests over election delay', Aljazeera, 6 September 2020, 20201112140636

<sup>154</sup> 'Hong Kong: 47 Charged Under Abusive Security Law', Human Rights Watch, 2 March 2021, 20210302101043

<sup>155</sup> 'Hong Kong's Crackdown Moves With Dizzying Speed', The Diplomat, 1 March 2021, 20210302114641; 'Hong Kong activists chant protest slogans as subversion hearing begins guarded by 100 police', ABC News (Australia), 1 March 2021, 20210302121114; 'Hong Kong activists chant protest slogans as subversion hearing begins guarded by 100 police', ABC News (Australia), 1 March 2021, 20210302121114; 'Queuing, blank placards and shopping: how Hongkongers innovated acts of resistance during security law clampdown', Hong Kong Free Press, 15 April 2021, 20210415151925

included so-called 'patriots only' candidates, reflecting electoral reforms imposed in March allowing for Beijing to vet candidates.<sup>156</sup>

## The National Security Law

The National Security Law (NSL) was implemented on 1 July 2020. It outlaws, in vague terms, 'secession', 'subversion', 'terrorist activities' and collusion with foreign entities.<sup>157</sup>

The NSL is written in the style of Chinese laws; its contents are similar in wording and style to Chinese legislation and not the British style familiar in Hong Kong.<sup>158</sup> All of the offences, including 'secession' and 'subversion' are broadly defined, but can include 'overthrowing', 'undermining' or 'interfering' with the Hong Kong or mainland governments.<sup>159</sup> There is no need for force, or the threat of force, to be involved in the crime and those who provide financial support to people guilty of offences are also guilty of an offence.<sup>160</sup> The offence of 'terrorism' is broadly defined and can include acts, plans or even threats to harm the government or a public facility.<sup>161</sup> Depending on the 'seriousness' of the offence, which is also not defined, penalties for any of these offences can range from three years in prison to life in prison.<sup>162</sup> The law applies extra-territorially, including against actions committed in Australia.<sup>163</sup>

Colonial-era 'sedition laws' have also been applied in the wake of civil unrest.<sup>164</sup> The crime of sedition is contained in section 9 and 10 of the Crimes Ordinance as a criminal offence that prohibits 'any act with a seditious intention, to utter any seditious words, or to print, publish, or display any seditious publications.'<sup>165</sup> While sedition laws are separate from the NSL,<sup>166</sup> they have also been ruled as offences that may 'endanger national security' in certain circumstances which has had implications for further legal procedures such as bail applications<sup>167</sup> (see [Judicial Proceedings for NSL and related offences](#)). In light of recent judicial consideration, concerns have been raised regarding whether the offence of sedition is unconstitutional.<sup>168</sup>

<sup>156</sup> 'Freedom in the World 2022 - Hong Kong', Freedom House, 24 February 2022, section F2, 20220225090200; 'Hong Kong 'patriots' poll results: Lowest election turnout yet, as pro-govt candidates sweep into legislature', Hong Kong Free Press, 20 December 2021, 20211221155828

<sup>157</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, 20230413124559

<sup>158</sup> Note for example, the way penalties are considered, in vague terms, for different levels of seriousness, which are not defined. 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 21ff, 20230413124559; cf. 'Criminal Law of the People's Republic of China', 14 March 1997, arts. 102ff CX168961; see also legal academic analysis: 'Why Beijing must respect Hong Kong courts' interpretation of national security law', Professor Simon Young (University of Hong Kong), South China Morning Post, 8 July 2020, 20200713143654

<sup>159</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 23, 20230413124559

<sup>160</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 14, 20230413124559

<sup>161</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, arts. 24ff, 20230413124559

<sup>162</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, chap. III, 20230413124559

<sup>163</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, arts. 37, 38, 20230413124559

<sup>164</sup> 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2021', United Kingdom Foreign, Commonwealth & Development Office, 13 December 2021, p. 24, 20211217133628

<sup>165</sup> 'After Hong Kong activist Tam Tak-chi's conviction, we still don't know what is or is not seditious', Angeline Chan, Hong Kong Free Press, 5 March 2022, 20220307102613

<sup>166</sup> 'Hong Kong pro-democracy activist found guilty under colonial-era sedition law over speech, slogans', Candice Chau, Hong Kong Free Press, 1 March 2022, 20220303091457

<sup>167</sup> 'Stringent national security bail threshold applicable to other offences, Hong Kong's top court rules', Hong Kong Free Press, 14 December 2021, 20211215093058

<sup>168</sup> 'After Hong Kong activist Tam Tak-chi's conviction, we still don't know what is or is not seditious', Angeline Chan, Hong Kong Free Press, 5 March 2022, 20220307102613

## Treatment of persons with criminal background, risk of arbitrary detention and unfair trials

China (including Hong Kong) has ratified the *Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment*.<sup>169</sup> Torture is prohibited by law.<sup>170</sup> According to the US Department of State, in 2020 there were reports of torture including 'medical abuse,' such as commitment to psychiatric centers to coerce cooperation and degrading treatment.<sup>171</sup> Freedom House reports for 2020 that there were credible allegations of torture of protesters in 2019.<sup>172</sup>

During the 2019 protests, many protestors were taken to the San Uk Ling Holding Centre at Sheng Shui, which is near the border with mainland China.<sup>173</sup> The Centre was constructed in 1979 as an immigration detention facility and is in a remote part of the Hong Kong countryside, far from hospitals and other facilities in Hong Kong.<sup>174</sup> Detainees claimed that they were tortured by being beaten, kicked or sexually assaulted<sup>175</sup> by police.<sup>176</sup> Police denied the allegations.<sup>177</sup> Beatings and sexual assaults were also alleged at police stations when protestors were held there.<sup>178</sup>

On 11 August 2019, police brought 54 detainees from the protests to the San Uk Ling Holding Centre, of whom 31 were later hospitalised.<sup>179</sup> Six of those who were taken to hospital were treated for broken bones. Detainees also claimed that the police prevented them from calling a lawyer, due to a lack of a phone.<sup>180</sup> Pro-democracy members of the Legislative Council, Hong Kong's parliament, were refused access to inspect the centre. Police denied that detainees had been tortured.<sup>181</sup> The police stopped using the San Uk Ling Holding Centre to detain arrested protestors in late September 2019.<sup>182</sup>

Senior British officers in the Hong Kong police force could face legal action in the United Kingdom on torture charges after activists advised that they will proceed with a private prosecution in August 2020. The case alleges torture was carried out in police stations and on the streets during the protests in June 2019.<sup>183</sup>

<sup>169</sup> 'DFAT Country Information Report - People's Republic of China', Department of Foreign Affairs and Trade, 21 December 2021, p. 11, 20211222100210

<sup>170</sup> 'The Constitution of the People's Republic of China - The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China', Government of Hong Kong, 1 May 2021, Chapter III, article 28 20220303123135

<sup>171</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, p. 3, 20230321165832

<sup>172</sup> 'Freedom in the World 2022 - Hong Kong', Freedom House, 24 February 2022, section F3, 20220225090200

<sup>173</sup> 'Why Hong Kong police stopped sending anti-government protesters to the remote and controversial San Uk Ling Holding Centre', South China Morning Post, 27 September 2019, 20191024164459

<sup>174</sup> 'Why Hong Kong police stopped sending anti-government protesters to the remote and controversial San Uk Ling Holding Centre', South China Morning Post, 27 September 2019, 20191024164459

<sup>175</sup> 'Why Hong Kong police stopped sending anti-government protesters to the remote and controversial San Uk Ling Holding Centre', South China Morning Post, 27 September 2019, 20191024164459; 'I am not the only one': Hong Kong student removes mask and accuses police of sexual assault', Hong Kong Free Press, 11 October 2019, 20191014114234

<sup>176</sup> 'Hong Kong: Arbitrary arrests, brutal beatings and torture in police detention revealed', Amnesty International, 19 September 2019, 20191024165926

<sup>177</sup> 'Why Hong Kong police stopped sending anti-government protesters to the remote and controversial San Uk Ling Holding Centre', South China Morning Post, 27 September 2019, 20191024164459

<sup>178</sup> 'I am not the only one': Hong Kong student removes mask and accuses police of sexual assault', Hong Kong Free Press, 11 October 2019, 20191014114234

<sup>179</sup> 'Hong Kong police ignore request from lawmakers to visit controversial San Uk Ling detention centre', Hong Kong Free Press, 10 September 2019, 20190910134533

<sup>180</sup> 'Task force to review facilities at San Uk Ling Holding Centre, where Hong Kong protesters say police abused them', South China Morning Post, 26 May 2020, 20201113162449

<sup>181</sup> 'Hong Kong police ignore request from lawmakers to visit controversial San Uk Ling detention centre', Hong Kong Free Press, 10 September 2019, 20190910134533

<sup>182</sup> 'Task force to review facilities at San Uk Ling Holding Centre, where Hong Kong protesters say police abused them', South China Morning Post, 26 May 2020, 20201113162449

<sup>183</sup> 'Hong Kong police could face torture case in UK court', Yahoo News, 10 August 2020, 20201112085329

The Hong Kong judicial system reflects the British legal model, and the law provides for an independent judiciary.<sup>184</sup> The Basic Law (Hong Kong's mini constitution), provides for rights such as the presumption of innocence, right to a fair trial and judicial independence.<sup>185</sup> National security law (NSL) cases may not follow similar law procedures (see [Judicial Proceedings for NSL and related offences](#)).

International judges from the Common Law tradition sit on Hong Kong's Court of Final Appeal.<sup>186</sup> There are currently 10 'overseas non-permanent judges.'<sup>187</sup> Multiple former foreign judges have resigned due to concerns regarding the NSL and judicial independence.<sup>188</sup>

Police generally follow well-established procedures for arrest. Police act on warrants that are duly authorised according to set procedures.<sup>189</sup> The law protects individuals from arbitrary arrest and detention, and affords the right to judicially challenge the lawfulness of their arrest or detention.<sup>190</sup> Police charge suspects without delay and bring arrested persons before a judicial officer within 48 hours and suspects are informed of charges against them.<sup>191</sup> Suspects may be detained for up to 48 hours before formal charges are made.<sup>192</sup> Suspects may be granted bail depending on the seriousness of the charges.<sup>193</sup> Prisoners on remand may be held for three to five months, depending on the complexity of the case. Those who plead not guilty may be remanded for up to twelve months due to court backlogs and time taken for further investigations.<sup>194</sup> Prisoners may receive visitors provided the officer in charge deems the visit would not jeopardise the investigation.<sup>195</sup>

Legal assistance is generally available. Hong Kong barristers are subject to the 'cab rank rule', in which they are required to take on any brief to appear before a court in the field in which they practice (for example, criminal law) unless there is a conflict of interest or the client is unable to pay. Barristers cannot refuse a brief for political reasons.<sup>196</sup> Means-tested legal aid is also available.<sup>197</sup> Detainees generally have access to a lawyer of their choice.<sup>198</sup> Trials are conducted by jury except in NSL cases and at the magistrate and district

<sup>184</sup> ['2022 Country Reports on Human Rights Practices - Hong Kong'](#), United States Department of State, 20 March 2023, p. 8, 20230321165832

<sup>185</sup> ['The Constitution of the People's Republic of China - The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China'](#), Government of Hong Kong, 1 May 2021, articles 85 and 87, 20220303123135

<sup>186</sup> ['Hong Kong Court of Final Appeal - The Non-Permanent Judges'](#), Hong Kong Court of Final Appeal, 30 March 2022, 20220629094503

<sup>187</sup> ['Hong Kong Court of Final Appeal - The Non-Permanent Judges'](#), Hong Kong Court of Final Appeal, 30 March 2022, 20220629094503

<sup>188</sup> ['Top UK judge to replace James Spigelman in Hong Kong'](#), The Sydney Morning Herald, 6 October 2020, 20201112150913; ['Hong Kong's judicial independence gets vote of confidence from top British judges, with pair deciding to continue serving on city's top court'](#), Tony Cheung, South China Morning Post, 27 August 2021, 20220309135921; ['National security law: ex-chief justice Geoffrey Ma defends role of foreign judges in Hong Kong, argues they should help enforce mini-constitution'](#), South China Morning Post, 6 May 2021, 20210506094110; ['THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2022'](#), United Kingdom Foreign, Commonwealth and Development Office, 11 January 2023, p. 13 – 15, 20230113133343

<sup>189</sup> ['2022 Country Reports on Human Rights Practices - Hong Kong'](#), United States Department of State, 20 March 2023, p. 5, 20230321165832

<sup>190</sup> ['2022 Country Reports on Human Rights Practices - Hong Kong'](#), United States Department of State, 20 March 2023, p. 5, 20230321165832

<sup>191</sup> ['2022 Country Reports on Human Rights Practices - Hong Kong'](#), United States Department of State, 20 March 2023, pp. 5 - 6, 20230321165832

<sup>192</sup> ['Information Pack for British Nationals detained or imprisoned in Hong Kong'](#), British Consulate General Hong Kong, 20 October 2022, p. 7, 20230424132514

<sup>193</sup> ['Information Pack for British Nationals detained or imprisoned in Hong Kong'](#), British Consulate General Hong Kong, 20 October 2022, p. 7, 20230424132514

<sup>194</sup> ['Information Pack for British Nationals detained or imprisoned in Hong Kong'](#), British Consulate General Hong Kong, 20 October 2022, p. 15, 20230424132514

<sup>195</sup> ['Information Pack for British Nationals detained or imprisoned in Hong Kong'](#), British Consulate General Hong Kong, 20 October 2022, p. 15, 20230424132514

<sup>196</sup> ['Barristers in Hong Kong'](#), Hong Kong Bar Association, no date, accessed 24 October 2019, 20191024153119

<sup>197</sup> ['Information Pack for British Nationals detained or imprisoned in Hong Kong'](#), British Consulate General Hong Kong, 20 October 2022, p. 16, 20230424132514

<sup>198</sup> ['2022 Country Reports on Human Rights Practices - Hong Kong'](#), United States Department of State, 20 March 2023, p. 7, 20230321165832

court levels.<sup>199</sup> Defendants will be presumed innocent, except in official corruption cases, and have the right not to testify or confess guilt, and be present at their trial.<sup>200</sup> Appeals may be lodged.<sup>201</sup> Courts have generally upheld 'due process rights and adjudicated civil and criminal matters fairly and efficiently in the past.'<sup>202</sup>

Significant police brutality allegedly occurred during both the 2019 and 2020 protests and mobile phone footage of police actions has been widely shared on social and traditional media. Police regularly used 'less-lethal' force, including water cannon, beanbag rounds, rubber bullets, teargas, oleo capsicum (OC) spray, and OC rounds.<sup>203</sup> Particularly serious incidents included the firing of live rounds on several occasions<sup>204</sup> causing serious and permanent injury,<sup>205</sup> and the use of tear gas and OC spray in enclosed spaces and at close range of protestors' faces.<sup>206</sup> Police are also alleged to have used significant force causing injury,<sup>207</sup> and to have beaten protestors as they retreated.<sup>208</sup>

At the time of this report, no police officer has ever been prosecuted, despite numerous acts of apparent misconduct towards protestors, media and bystanders being captured on file and frequent condemnation by human rights groups and foreign governments.<sup>209</sup> In May 2020, Hong Kong's police watchdog, the Independent Police Complaints Council, said it found no significant wrongdoing on the police's part during

<sup>199</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, p. 9, 20230321165832

<sup>200</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, p. 9, 20230321165832

<sup>201</sup> 'Information Pack for British Nationals detained or imprisoned in Hong Kong', British Consulate General Hong Kong, 20 October 2022, p. 17, 20230424132514

<sup>202</sup> 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, section F2, 20230310092826

<sup>203</sup> 'Hong Kong's New Police State', The Diplomat, 1 June 2021, 20210602094024; 'Everyone fears Beijing': Police fire tear-gas, rubber bullets at protesters, Sydney Morning Herald, 12 June 2019, 20190820171209; Reuters, 1 July 2019, 20190812122601; 'Hong Kong: Timeline of extradition protests', BBC News, accessed 19 August 2019, 20190820141003; 'Hong Kong protests: police fire teargas as thousands rally against Beijing's national security law', The Guardian, 24 May 2020, 20201112135235

<sup>204</sup> 'Hong Kong police fire gun and use water cannon on protesters', BBC News, 26 August 2019, 20190826150852, 'Police Fire Live Gun Shot as Weapons Drawn in Hong Kong Protests', Sydney Morning Herald, 26 August 2019, 20190826124903; 'Major Clashes Erupt in Hong Kong Ahead of China's National Day', The New York Times, 29 September 2019, 20190930121614; 'Hong Kong police 'overwhelmed' as anti-government protesters unleash new level of violence', South China Morning Post, 2 October 2019, 20191002105030

<sup>205</sup> 'Secondary school student in critical condition after being shot with live round by Hong Kong police amid National Day protests', South China Morning Post, 2 October 2019, 20191002102428; 'Hong Kong police say shooting of 18-year-old at close range was in self-defence', Hong Kong Free Press, 2 October 2019, 20191002110628

<sup>206</sup> 'Hong Kong protests: teenage boy who suffered gunshot wound in leg arrested on suspicion of taking part in riots and attacking police officer', South China Morning Post, 5 October 2019, 20191008141910; 'Indonesian journalist demands answers after she was shot in the face with non-lethal round by Hong Kong police officer', South China Morning Post, 30 September 2019, 20190930142559; 'Indonesian journalist shot in the face will request Hong Kong Police to launch criminal probe into incident', South China Morning Post, 30 September 2019, 20191001085300; 'Journalist shot in face with Hong Kong police projectile will lose sight permanently in right eye, lawyer says', Hong Kong Free Press, 2 October 2019, 20191003103233; 'An eye for an eye: sea of black at Hong Kong airport protest', France24, 12 August 2019, 20190813151220; 'Young woman allegedly shot in the eye during Hong Kong protests', The Straits Times, 13 August 2019, 20190813151454

<sup>207</sup> 'Chaos on Hong Kong's MTR network as police beat people on train', South China Morning Post (YouTube), 1 September 2019, 20190902105935; 'Harrowing video that shocked Hong Kong shows cycle of escalating violence', Sydney Morning Herald, 1 September 2019, 20190902132303; 'Hong Kong protests: brutal undercover police tactics spark outcry', Guardian, 12 August 2019, 20191025110217; 'Police fire tear gas in Hong Kong as hundreds protest against proposed national security laws', ABC News (Australia), 24 May 2020, 20201114152513; 'Riot Police Shove Journalists as Hong Kong Marks June 12 Police Violence', Radio Free Asia (RFA), 12 March 2020, 20201114145436; 'HK police fire tear gas at protesters', The Canberra Times, 1 July 2020, 20201116102409

<sup>208</sup> 'Major Clashes Erupt in Hong Kong Ahead of China's National Day', The New York Times, 29 September 2019, 20190930121614; 'Hong Kong protests: brutal undercover police tactics spark outcry', The Guardian, 12 August 2019, 20191025110217; 'Hong Kong protests: Police tackle 12-year-old girl to the ground', BBC News, 7 September 2020, 20201112122143; 'A Hong Kong police officer knelt on a protester's neck during an arrest, video shows', The Insider, 16 June 2020, 20201114122451

<sup>209</sup> 'Hong Kong riot police seen beating protesters in clash at metro station', Guardian (YouTube), 31 August 2019, 20190902111256

<sup>209</sup> 'Anger as Hong Kong watchdog clears police over protest response', The Guardian, 15 May 2020, 20201112123135

the 2019 protests although concerns have been raised regarding the council's independence.<sup>210</sup> Attempts at 'private prosecutions' have so far been unsuccessful.<sup>211</sup> Legal action is also being pursued in the United Kingdom.

#### *Criminal and Judicial Procedure for NSL and related offences*

The National Security Law is separate from Hong Kong Basic Law and may not contain the same legal safeguards. The NSL granted police additional powers to investigate individuals suspected of national security offences including search of properties, seizure of information and assets, and covert surveillance without judicial oversight.<sup>212</sup> It also allows for immunities and exemptions for national security institutions and personnel.<sup>213</sup>

Individuals charged with national security offences have faced difficulty securing bail, and some may be granted bail with strict conditions.<sup>214</sup> The bail threshold for NSL case is significantly higher<sup>215</sup> with defendants required to prove they will not 'continue to commit acts endangering national security.'<sup>216</sup>

Trials for NSL cases may be undertaken without a jury.<sup>217</sup> Judges who hear cases under the law are specially selected by the Chief Executive in consultation with the central government.<sup>218</sup> Judges serve for one year but may be removed if they make statements which 'endanger national security.'<sup>219</sup> No non-permanent overseas judges have been allocated to hear cases related to national security cases.<sup>220</sup> Judges have been criticised by both pro-Beijing and pro-Democracy<sup>221</sup> protestors who claim that sentences or bail

<sup>210</sup> 'Why are there protests in Hong Kong? All the context you need', BBC News, 21 May 2020, 20201112133434; 'Country Report for Human Rights Practices 2020 - Hong Kong', US Department of State, 30 March 2021, p. 6, 20210401100609

<sup>211</sup> 'Hong Kong justice secretary tries to have prosecution of policeman who shot protester thrown out by 'assuming conduct' of case', South China Morning Post, 18 August 2020, 20200819121958

<sup>212</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 43, 20230413124559; 'Key elements of Hong Kong national security law', The Straits Times, 1 July 2020, 20200702080236; 'Hong Kong: In the name of national security', Amnesty International, 29 June 2021, p. 12, 20220309142136; 'Freedom in the World 2022 - Hong Kong', Freedom House, 24 February 2022, section F2, 20220225090200

<sup>213</sup> 'Hong Kong: In the name of national security', Amnesty International, 29 June 2021, p. 13, 20220309142136

<sup>214</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, pp. 6 – 7, 20230321165832; '2 years of Hong Kong's national security law – explained in data', Lea Mok, Hong Kong Free Press, 30 June 2022, 20220701100548; 'Explainer: Hong Kong's national security crackdown – month 20', Hong Kong Free Press, 3 March 2022, 20220304152454; 'Assumed as criminals: Hong Kong defendants find bail elusive', Suzanne Sataline, Al Jazeera, 26 January 2022, 20220128105915

<sup>215</sup> 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, section F1, 20230310092826

<sup>216</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 14, 20230413124559; see reporting 'Assumed as criminals: Hong Kong defendants find bail elusive', Suzanne Sataline, Al Jazeera, 26 January 2022, 20220128105915; '47 democrats national security case: Hong Kong activist Wong ji-yuet granted bail ahead of Christmas', Hong Kong Free Press, 22 December 2021, 20211223143416; 'Explainer: Hong Kong's national security crackdown – month 20', Hong Kong Free Press, 3 March 2022, 20220304152454; 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2021', United Kingdom Foreign, Commonwealth & Development Office, 13 December 2021, p. 22, 20211217133628

<sup>217</sup> 'There's no need for jury in security trial, judge rules', The Standard, 21 May 2021, 20210521145007; 'First trial under Hong Kong's national security law under way', Aljazeera, 23 June 2021, 20210701144602; 'No jury for Hong Kong's first national security trial: source', France 24, 8 February 2021, 20210302143335; 'First trial of a defendant charged under Hong Kong's national security law 'to proceed without a jury'', South China Morning Post, 9 February 2021, 20210302142005

<sup>218</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 44, 20230413124559

<sup>219</sup> 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, section F1, 20230310092826

<sup>220</sup> 'Foreign Judges Are Enabling Hong Kong's Legal Crackdown', Eric Lai, The Diplomat, 10 February 2022, 20220309161432

<sup>221</sup> The terms 'pro-Beijing' and 'pro-democracy' are used as terms of convenience. The views of various activists during the unrest are complex and not fully captured by the terms. People in favour of full democratic franchise in Hong Kong may be loyal to Beijing and those loyal to Beijing may support full democratic franchise in Hong Kong.

given to protestors are too lenient or too severe.<sup>222</sup> Judges adjudicating cases involving anti-government protests have received threats.<sup>223</sup> The US Department of State notes that protestors are likely to be able to find independent legal representation in Hong Kong although there have been reports that lawyers experienced obstruction at police stations and delays in seeing clients arrested during protests.<sup>224</sup> In the high profile national security matter involving pro-democracy media tycoon Jimmy Lai, the Hong Kong government attempted to block his representation by a foreign lawyer, British Kings Counsel (KC), Timothy Owens.<sup>225</sup>

Protestors and other pro-democracy individuals have faced trial over a range of charges including national security offences and sedition, and other criminal offence. In relation to the 2019 protests, individuals have faced trial over a range of charges including rioting, and other 'offences such as unlawful assembly, arson, desecrating the national flag, possession of an offensive weapon, assaulting a police officer, and stopping a vehicle on an expressway.'<sup>226</sup> Hong Kong authorities reported to the Legislative Council in October 2022 that, as of 31 August 2022, 2,893 individuals had been prosecuted for protest-related offences including 517 minors,<sup>227</sup> and that '2,044 defendants had completed their judicial proceedings, with 80 per cent of them – or 1,631 individuals – "bearing legal consequences," including prison sentences, community service orders, probation and binding-over orders.'<sup>228</sup> A number of defendants have been acquitted for various reasons including lack of evidence and police procedural issues.<sup>229</sup> The Hong Kong Court of Final Appeal unanimously ruled in November 2021 that 'people cannot be convicted of rioting or illegal assembly if they are physically absent from the scene,' although noted there may be other legal avenues for charges such as the 'joint enterprise' doctrine.<sup>230</sup> Subsequent convictions for rioting cited the decision with some protestors

<sup>222</sup> 'Beijing loyalists target Hong Kong judges after protester acquittals', Channel News Asia, 8 November 2020, 20201113132017; 'Hong Kong judges battle Beijing over rule of law as pandemic chills protests', Reuters, 16 April 2020, 20200416095705

<sup>223</sup> 'Threatening letters sent to 2 more Hong Kong judges who jailed anti-government protesters', South China Morning Post, 23 November 2021, 20211130113354; 'Hong Kong protests: 8 evacuated from court building after judge sent threatening letter containing caustic soda', South China Morning Post, 11 November 2021, 20211112112600

<sup>224</sup> 'Country Report for Human Rights Practices 2020 - Hong Kong', US Department of State, 30 March 2021, p. 6, 20210401100609

<sup>225</sup> The case is ongoing with Lai appealing the decision in April 2023: 'Hong Kong media tycoon Jimmy Lai files legal bid against gov't decision to deny his foreign lawyer a visa', Hong Kong Free Press, 13 April 2023, 20230420082446. See previous reporting on this matter which included the Beijing government providing an official opinion: 'Explainer: NPCSC's Interpretation of Hong Kong National Security Law over Jimmy Lai's Foreign Defense Counsel', NPC Observer, 30 December 2022, 20230103111705; 'Hong Kong Bar Association urges against blanket ban on overseas lawyers in national security law cases', Peter Lee, Hong Kong Free Press, 19 January 2023, 20230127155422; 'Hong Kong has ways of dealing with already admitted foreign lawyers, such as denying their visas, lawmakers told', Candice Chau, Hong Kong Free Press, 5 April 2023, 20230405132747

<sup>226</sup> 'Hong Kong protests: more than 10,200 arrested in connection with unrest since 2019, government tells lawmakers', Ng Kang-chung, South China Morning Post, 9 April 2021, 20220309140444; a May 2021 media source quotes one official giving slightly different numbers of 10,2500 arrests and 2,5000 prosecutions; '10,250 arrests and 2,500 prosecutions linked to 2019 Hong Kong protests, as security chief hails dip in crime rate', Hong Kong Free Press, 17 May 2021, 2021051815261

<sup>227</sup> See also, 'Alarm by sentencing under national security law', Office of the High Commissioner for Human Rights (OHCHR), 10 October 2022, 20221012172014; 'First minors sentenced under Hong Kong's national security law', Almond Li, Hong Kong Free Press, 8 October 2022, 20221010134032

<sup>228</sup> 'Almost 3,000 people, including 517 minors, prosecuted so far over 2019 Hong Kong protests', Kelly Ho, Hong Kong Free Press, 26 October 2022, 20221028125150; See also, 'More than half of Hong Kong protesters convicted over roles in anti-government demonstrations have "deep remorse", security chief says', William Yiu, South China Morning Post, 11 September 2022, 20220913102852; 'Explained in data: What happened to Hong Kong's protesters?', Lea Mok, Hong Kong Free Press, 18 July 2022, 20221108115900

<sup>229</sup> 'Hong Kong Timeline 2019-2022: Anti-Extradition Protests & National Security Law', Human Rights in China (HRIC), 16 February 2022, 20220309142820; '4 Hong Kong protesters convicted over 2019 illegal assembly, but court questions police handling of evidence', Candice Chau, Hong Kong Free Press, 14 January 2022, 20220117094814

<sup>230</sup> 'Hong Kong court narrows scope of riot convictions', Jurist, 6 November 2021, 20211108132037; 'Hong Kong protests: 20 found guilty over 2019 Sheung Wan riot, though recent "joint enterprise" ruling plays role in 3 acquittals', South China Morning Post, 12 November 2021, 20211116102113; 'Hong Kong justice chief warns public that court's riot ruling still leaves government with plenty of legal options at its disposal', South China Morning Post, 6 November 2021, 20211108101036

found to have 'amplified the momentum of the riot' by being present at the protest and in some cases, wearing similar clothing, or protective gear.<sup>231</sup>

## Prison and Detention Conditions

Prison conditions in Hong Kong are generally acceptable by international standards. There are 29 correctional facilities in Hong Kong including prisons, detention centres, facilities for rehabilitation, drug treatment and psychiatric care.<sup>232</sup> Prisoners on remand are held separately from those sentenced.<sup>233</sup> Shared dormitories are the norm and all basic necessities are provided.<sup>234</sup> Prisoners have access to educational services, healthcare, psychiatric services, welfare workers and religious services.<sup>235</sup> Prisoners are required to work (unless medically unable) Monday to Saturday, for which they earn a small wage.<sup>236</sup>

Drugs are not generally a problem due to strict monitoring.<sup>237</sup> Overcrowding has been reported at times, particularly at the Lai Chi Kok remand centre<sup>238</sup> with data from 2022 showing the highest 'average daily number of people on remand' in the last decade.<sup>239</sup> There is a low staff-to-prisoner ratio, which may be close to one-to-one.<sup>240</sup> In 2021 Hong Kong's first 'smart prison' was opened at Tai Tam Gap Correctional Institute<sup>241</sup> which aimed, in part, to 'optimise' staff resources.<sup>242</sup> However, this facility was repurposed for immigration detention purposes (specifically for non-refoulement claimants).<sup>243</sup> In order to clear the backlog of cases related to the civil unrest, and the higher detention population, 'mega courts' have been opened.<sup>244</sup>

In general, prisons are inspected and problems are investigated by authorities, including the Office of the Ombudsman.<sup>245</sup> Prisons are also regularly visited by Justices of the Peace, who may make suggestions for improving conditions and on prisoner welfare matters.<sup>246</sup> In general, legislators are also able to conduct

<sup>231</sup> 'Data analysis: How Hong Kong convicted 200 people for rioting during the 2019 protests and unrest', Peter Lee, Hong Kong Free Press, 7 April 2023, 20230420075946

<sup>232</sup> 'Prisons in Hong Kong', Legislative Council of the Hong Kong Special Administration Region of the People's Republic of China, 29 April 2022, 20230424143227

<sup>233</sup> 'Information Pack for British Nationals detained or imprisoned in Hong Kong', British Consulate General Hong Kong, 20 October 2022, p. 9, 20230424132514

<sup>234</sup> 'Information Pack for British Nationals detained or imprisoned in Hong Kong', British Consulate General Hong Kong, 20 October 2022, p. 9, 20230424132514

<sup>235</sup> 'Information Pack for British Nationals detained or imprisoned in Hong Kong', British Consulate General Hong Kong, 20 October 2022, p. 9, 20230424132514

<sup>236</sup> 'Information Pack for British Nationals detained or imprisoned in Hong Kong', British Consulate General Hong Kong, 20 October 2022, p. 9, 20230424132514

<sup>237</sup> 'Information Pack for British Nationals detained or imprisoned in Hong Kong', British Consulate General Hong Kong, 20 October 2022, p. 11, 20230424132514; 'Hong Kong's prison system explained', South China Morning Post, 11 March 2017, 20191025115709

<sup>238</sup> 'Information Pack for British Nationals detained or imprisoned in Hong Kong', British Consulate General Hong Kong, 20 October 2022, p. 9, 20230424132514; 'At breaking point: Hong Kong's largest prison begins transferring inmates amid chronic overcrowding', South China Morning Post, 24 October 2019, 20191025120734

<sup>239</sup> 'Corrections chief rejects 'brainwashing' claims as average daily remands in Hong Kong prisons reaches decade-high', Kelly Ho, Hong Kong Free Press, 23 February 2023, 20230307153555

<sup>240</sup> 'Information Pack for British Nationals detained or imprisoned in Hong Kong', British Consulate General Hong Kong, 20 October 2022, p. 11, 20230424132514

<sup>241</sup> 'Hong Kong launches "smart prison" of efficient, humanized management', Xinhua, 22 May 2021, 20220309143940

<sup>242</sup> 'Smart prison to address challenge of high staff turnover', Dr Winnie Tang, Hong Kong Economic Journal (EJinsight), 28 November 2021, 20220309144125

<sup>243</sup> 'Bio-tracked, Mistreated, Hog-tied: Immigration Detention in East Asia in 2021', The Diplomat, 29 December 2021, 20220309144321

<sup>244</sup> 'Hong Kong protests: second mega court for clearing backlog of cases to accommodate 250 people', South China Morning Post, 12 October 2021, 20211014103702

<sup>245</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, p. 4, 20230321165832

<sup>246</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, p. 4, 20230321165832; 'Information Pack for British Nationals detained or imprisoned in Hong Kong', British Consulate General Hong Kong, 20 October 2022, p. 11, 20230424132514

prison visits,<sup>247</sup> however this has been refused in one instance during the 2019 civil unrest.<sup>248</sup> Access to complaint mechanisms is reportedly unrestricted, however, activists have called for an independent prisoner complaint process and monitoring mechanism to protect inmates who complain from retaliation.<sup>249</sup>

During the 2019 protests, protesters were generally held in cells at police stations. However, because of the number of arrests and protests held outside police stations, protestors were moved elsewhere, including the San Uk Ling Holding Centre, the site of alleged torture.<sup>250</sup> Detainees claimed that they were denied access to lawyers for up to 12 hours, which police claimed was because of the remote location of the holding facility.<sup>251</sup>

Prisons host a growing number of political prisoners and detainees.<sup>252</sup> A December 2021 report from Reuters showed that arrested pro-democracy activists have been separated to different prisons across Hong Kong with some in solitary confinement.<sup>253</sup> The report describes their 'daily routine of sleep, exercise, meals and study,' with those not convicted of charges allowed two visitors per day and food deliveries.<sup>254</sup> They are permitted two pens and six books per month.<sup>255</sup> 'Wall-fare,' a Hong Kong prisoner support group disbanded in September 2021 after nine months of operation following comments from the Hong Police Chief that 'certain groups' 'endanger national security.'<sup>256</sup> Individuals and groups, including Wall-fare, had been involved in writing letters writing to detained protestors<sup>257</sup> but most support groups have reportedly gone 'underground.'<sup>258</sup> Political prisoners, particularly young people imprisoned for protest-related crimes, have been offered the opportunity to attend 'voluntary "deradicalisation" schemes.'<sup>259</sup> Participants reportedly learn to "disengage from radical thoughts and violent behaviours progressively,"<sup>260</sup> as well as about the national security law, traditional values and Chinese history.<sup>261</sup>

## Death Penalty

There is no 'death penalty or corporal punishment' in Hong Kong.<sup>262</sup> The death penalty was abolished in Hong Kong in 1993. The last execution to take place was in November 1966.<sup>263</sup>

<sup>247</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, p. 4, 20230321165832

<sup>248</sup> 'Hong Kong police ignore request from lawmakers to visit controversial San Uk Ling detention centre', Hong Kong Free Press, 10 September 2019, 20190910134533

<sup>249</sup> 'Hong Kong prisons need independent monitor, say activists, as ex-detainees allege abuse', Hong Kong Free Press, 7 May 2020, 20200507133834

<sup>250</sup> 'Why Hong Kong police stopped sending anti-government protesters to the remote and controversial San Uk Ling Holding Centre', South China Morning Post, 27 September 2019, 20191024164459

<sup>251</sup> 'Why Hong Kong police stopped sending anti-government protesters to the remote and controversial San Uk Ling Holding Centre', South China Morning Post, 27 September 2019, 20191024164459

<sup>252</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, p. 11, 20230321165832; 'Political prisoners are packing Hong Kong's jails', The Economist, 26 May 2022, 20221013161649

<sup>253</sup> 'Hong Kong's jailed, exiled democrats lament Sunday election', Reuters, 15 December 2021, 20211217101616

<sup>254</sup> 'Hong Kong's jailed, exiled democrats lament Sunday election', Reuters, 15 December 2021, 20211217101616

<sup>255</sup> 'Hong Kong's jailed, exiled democrats lament Sunday election', Reuters, 15 December 2021, 20211217101616

<sup>256</sup> 'Hong Kong Prison Support Group Disbands After Security Chief Comments', Radio Free Asia (RFA), 14 September 2021, 20210915134720

<sup>257</sup> 'How letter campaigns are giving Hong Kong's jailed protesters courage to carry on', Hong Kong Free Press, 13 February 2021, 20210215141557

<sup>258</sup> 'Small mercies: Low-profile groups struggle to support Hong Kong prisoners a year after the fall of Wall-fare', Kelly Ho, Hong Kong Free Press, 17 September 2022, 20220919160008

<sup>259</sup> 'Former Hong Kong protesters reflect on life behind bars – and a changed city', Thomas Chan, Hong Kong Free Press, 11 September 2022, 20220912123122; 'Hong Kong hails 'de-radicalisation' rehab programmes for 2019 protesters in custody', Almond Li, Hong Kong Free Press, 14 April 2022, 20220429110454

<sup>260</sup> 'Corrections chief rejects 'brainwashing' claims as average daily remands in Hong Kong prisons reaches decade-high', Kelly Ho, Hong Kong Free Press, 23 February 2023, 20230307153555

<sup>261</sup> 'Former Hong Kong protesters reflect on life behind bars – and a changed city', Thomas Chan, Hong Kong Free Press, 11 September 2022, 20220912123122

<sup>262</sup> 'Information Pack for British Nationals detained or imprisoned in Hong Kong', British Consulate General Hong Kong, 20 October 2022, p. 17, 20230424132514

<sup>263</sup> 'History of the death penalty in Hong Kong and Macau', Amnesty International, 13 May 2016, CX6A26A6E4029

## Double Jeopardy

The Basic Law (a document analogous to a constitution) provides that rights provided for under the International Covenant on Civil and Political Rights (ICCPR) must be adhered to.<sup>264</sup> The ICCPR prohibits double jeopardy.<sup>265</sup> According to law, no person is liable to be tried or punished for an offence for which they have already been finally convicted or acquitted according to the laws of Hong Kong.<sup>266</sup> Common law also prohibits retrial of a person who has been tried in a foreign court for the same crime, assuming that the foreign court had valid jurisdiction, regardless of the verdict.<sup>267</sup>

## Reports of persons being harmed on return for offences committed overseas

No reports were found of persons being harmed on return for offences committed overseas by state or societal actors.

## Additional Reading

- 'China Common Claims - April 2023', Country of Origin Information Service Section (COISS), 14 April 2023, [20230414121235](#) (Word), [20230414121511](#) (PDF)
- 'Hong Kong National Security Law Thematic Brief (July 2022)', Country of Origin Information Services Section (COISS), 12 July 2022, [20220722165547](#) (Word), [20220712152806](#) (PDF)
- 'Country Policy and Information Note China: Hong Kong national security law', UK Home Office, 6 July 2022, [20220707121347](#).

<sup>264</sup> 'The Constitution of the People's Republic of China - The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China', Government of Hong Kong, 1 May 2021, Chapter III, article 39 [20220303123135](#)

<sup>265</sup> 'International Covenant on Civil and Political Rights Status', United Nations, 23 October 2017, art 14(7) [CISED50AD6019](#)

<sup>266</sup> 'Hong Kong Bill of Rights Ordinance', Government of Hong Kong, 8 June 1991, art. 11(6) [20191025131629](#);

<sup>267</sup> 'Double Jeopardy', Law Reform Commission of Hong Kong, HKLii, February 2012, various pages, [20191025133014](#); Chau, Pak-kwan and Lam, S, 'Research Study on the Agreement between Hong Kong and the Mainland concerning Surrender of Fugitive Offenders', Legislative Council website, March 2001, [CIS22509](#)



Australian Government  
Department of Home Affairs

# Common Claims

s. 22(1)(a)(ii)

Country of Origin Information Services Section (COISS)

Effective from 6 December 2023

### About this product

The Country of Origin Information Services Section (COISS) in the Department of Home Affairs (Home Affairs) has prepared this product to facilitate consideration of claims for protection visas in Australia. The purpose of it is to provide a compilation of country of origin information on common claims identified in the current caseload. Generally, it examines human rights and protection issues which relate to Australia's international obligations under the 1951 Refugee Convention and other treaties. It does not represent an exhaustive overview of the country information or issues.

This product is based on open source documents, which have been uploaded to CISNET. The paragraphs of country information included in this product each include a leading or headline sentence that represents a summary of the COI cited in that paragraph. They are not legal or policy statements about an issue. Supporting sentences amplify and provide more detail or context about the issue and are reliant on sources that are fully documented throughout this document. The reliability and relevance of those sources needs to be assessed in relation to the information provided.

This product is current at the time of completion and the date indicated on the front page.

Should a request to access this document be made under the *Freedom of Information Act 1982*, and/or by anyone who does not have access to CISNET, a decision for its release should be referred to COISS via email: [s.22\(1\)\(a\)@homeaffairs.gov.au](mailto:s.22(1)(a)@homeaffairs.gov.au).

Table of Contents

# s. 22(1)(a)(ii)

|                                 |    |
|---------------------------------|----|
| HONG KONG .....                 | 47 |
| CIVIL UNREST .....              | 47 |
| THE NATIONAL SECURITY LAW ..... | 49 |
| <i>Implementation</i> .....     | 52 |

*This page is intentionally left blank.*

# Hong Kong

## Civil Unrest

Hong Kong experienced significant civil unrest in both 2019 and 2020. Protests broke out in June 2019 over legislation that would allow extradition to mainland China (the extradition bill was formally withdrawn on 23 October 2019<sup>460</sup>), but evolved into a broader pro-democracy movement.<sup>461</sup> The street protests have largely ceased amid an ongoing legal crackdown against pro-democracy individuals and groups, and restrictions imposed during the COVID-19 pandemic.<sup>462</sup> Hundreds of protestors attended a Hong Kong court in March 2021 in support of the '47 Democrats,' opposition figures who helped organise a public opinion poll to coordinate pro-democracy candidates for the Legislative Council (LegCo) election, which resulted in charges of subversion.<sup>463</sup> Protests planned for 2023 were heavily restricted<sup>464</sup> or cancelled, in some cases reportedly after organisers were contacted by national security police.<sup>465</sup>

**Thousands of arrests have been made in relation to the civil unrest and judicial proceedings are ongoing.** According to official figures as of October 2022, 10,279 individuals had been arrested over involvement in anti-government protests since June 2019 with 765 individuals charged with rioting.<sup>466</sup> Charges continue to be laid in relation to protest activity from 2019.<sup>467</sup> In April 2022, the authorities confirmed 'it took 300 to 400 days for some 90 court cases related to the 2019 protests to reach a conclusion.'<sup>468</sup> Hong Kong authorities reported to the Legislative Council in October 2022 that,

<sup>460</sup> 'Hong Kong's 'dead' extradition bill finally buried as government formally withdraws it', South China Morning Post, 23 October 2019, 20191024102010

<sup>461</sup> 'Hong Kong Timeline 2019-2022: Anti-Extradition Protests & National Security Law', Human Rights in China (HRIC), 16 May 2022, 20230413114011

<sup>462</sup> 'Explainer: How 3 years of the national security law transformed Hong Kong – Part II', Hong Kong Free Press, 30 June 2023, 20230704101319; 'How China Dealt a 'Knockout Blow' to Its Opponents in Hong Kong', Tiffany May, The New York Times, 5 February 2023, 20230208093210; 'Explainer: Hong Kong's hollowed-out pro-democracy camp – who's left and what's next?', Hong Kong Free Press, 29 May 2021, 20210811140537

<sup>463</sup> 'Hong Kong: 47 Charged Under Abusive Security Law', Human Rights Watch, 2 March 2021, 20210302101043; 'Hong Kong's Crackdown Moves With Dizzying Speed', The Diplomat, 1 March 2021, 20210302114641; 'Hong Kong activists chant protest slogans as subversion hearing begins guarded by 100 police', ABC News (Australia), 1 March 2021, 20210302121114; 'Hong Kong activists chant protest slogans as subversion hearing begins guarded by 100 police', ABC News (Australia), 1 March 2021, 20210302121114; 'Queuing, blank placards and shopping: how Hongkongers innovated acts of resistance during security law clampdown', Hong Kong Free Press, 15 April 2021, 20210415151925

<sup>464</sup> 'Hong Kong police make protesters wear numbered tags, carry own cordon line, 100 people max., mask-free', Hong Kong Free Press, 27 March 2023, 20231018113944; 'Explainer: Hong Kong's national security crackdown – month 33', Hong Kong Free Press, 3 April 2023, 20230405133338

<sup>465</sup> 'Hong Kong police step up surveillance to 'tame' activists', AFP, The Standard, 29 September 2023, 20231018113740; 'Emotional meltdown: Hong Kong Labour Day demo cancelled, as activist says security law prevents disclosing why', Lea Mok, Hong Kong Free Press, 26 April 2023, 20230502080706; 'Hong Kong women's group cancels rally night before demo: police say 'violent groups' sought to attend', Candice Chau, Hong Kong Free Press, 7 March 2023, 20230307154600; 'Hong Kong pro-democracy party says police warned members against joining women's rights march', Hillary Leung, Hong Kong Free Press, 6 March 2023, 20230307154439; 'Hong Kong police stop activists from joining women's march', Kanis Leung, AP News, 5 March 2023, 20230307154955

<sup>466</sup> 'Data analysis: How Hong Kong convicted 200 people for rioting during the 2019 protests and unrest', Peter Lee, Hong Kong Free Press, 7 April 2023, 20230420075946; see also, 'Almost 3,000 people, including 517 minors, prosecuted so far over 2019 Hong Kong protests', Kelly Ho, Hong Kong Free Press, 26 October 2022, 20221028125150; 'Hong Kong protests: more than 10,200 arrested in connection with unrest since 2019, government tells lawmakers', Ng Kang-chung, South China Morning Post, 9 April 2021, 20220309140444

<sup>467</sup> 'Hong Kong charges man with rioting almost 4 years after 2019 protest', Peter Lee, Hong Kong Free Press, 17 May 2023, 20230518123955

<sup>468</sup> '90 court cases related to 2019 Hong Kong protests took 300 to 400 days to conclude', Peter Lee, Hong Kong Free Press, 27 April 2022, 20220428101529, see 'LCQ14: Statistics on criminal cases', Hong Kong: Government of, 27 April 2022, 20220629095653. The Georgetown Center for Asian Law echoes this estimate with their data indicating an average of 343 days from arrest to sentencing, The Hong Kong 2019 Protest Movement: A Data

as of 31 August 2022, 2,893 individuals had been prosecuted for protest-related offences including 517 minors,<sup>469</sup> and that '2,044 defendants had completed their judicial proceedings, with 80 per cent of them – or 1,631 individuals – "bearing legal consequences," including prison sentences, community service orders, probation and binding-over orders.'<sup>470</sup> Some protestors have not yet faced trial due to the judicial backlog,<sup>471</sup> and there is currently no timeframe in which the cases are expected to be finalised.<sup>472</sup>

### **Protestors and other pro-democracy individuals have faced trial over a range of charges.**

These include rioting, public nuisance and other 'offences such as unlawful assembly, arson, desecrating the national flag, possession of an offensive weapon, assaulting a police officer, and stopping a vehicle on an expressway.'<sup>473</sup> Many have been convicted of offences and handed prison sentences in accordance with the law.<sup>474</sup> A number of defendants have been acquitted for various reasons including lack of evidence and police procedural issues<sup>475</sup> although the government has lodged appeals in some cases with success.<sup>476</sup> Judges have also been intimidated or threatened for

Analysis of Arrests and Prosecutions', Georgetown Center for Asian Law, 26 October 2023, p. 63, 20231101134456

<sup>469</sup> See also, 'Alarm by sentencing under national security law', Office of the High Commissioner for Human Rights (OHCHR), 10 October 2022, 20221012172014; 'First minors sentenced under Hong Kong's national security law', Almond Li, Hong Kong Free Press, 8 October 2022, 20221010134032

<sup>470</sup> 'Almost 3,000 people, including 517 minors, prosecuted so far over 2019 Hong Kong protests', Kelly Ho, Hong Kong Free Press, 26 October 2022, 20221028125150; See also, 'More than half of Hong Kong protesters convicted over roles in anti-government demonstrations have "deep remorse", security chief says', William Yiu, South China Morning Post, 11 September 2022, 20220913102852; 'Explained in data: What happened to Hong Kong's protesters?', Lea Mok, Hong Kong Free Press, 18 July 2022, 20221108115900

<sup>471</sup> '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, p.8, 20230321165832

<sup>472</sup> 'Data analysis: How Hong Kong convicted 200 people for rioting during the 2019 protests and unrest', Peter Lee, Hong Kong Free Press, 7 April 2023, 20230420075946; 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2023', United Kingdom Foreign, Commonwealth & Development Office, 19 September 2023, p. 22, 20230920134141

<sup>473</sup> 'The Hong Kong 2019 Protest Movement: A Data Analysis of Arrests and Prosecutions', Georgetown Center for Asian Law, 26 October 2023, p. 54, 20231101134456; 'Hong Kong protests: more than 10,200 arrested in connection with unrest since 2019, government tells lawmakers', Ng Kang-chung, South China Morning Post, 9 April 2021, 20220309140444

<sup>474</sup> 'Data analysis: How Hong Kong convicted 200 people for rioting during the 2019 protests and unrest', Peter Lee, Hong Kong Free Press, 7 April 2023, 20230420075946; 'Explained in data: What happened to Hong Kong's protesters?', Lea Mok, Hong Kong Free Press, 18 July 2022, 20221108115900; 'Hong Kong Timeline 2019-2022: Anti-Extradition Protests & National Security Law', Human Rights in China (HRIC), 16 May 2022, 20230413114011; The following is not an exhaustive list of recent convictions, see '6 found guilty of rioting near PolyU during Hong Kong protests in 2019, as judge casts doubt on alibis', Hong Kong Free Press, 20 October 2023, 20231023102251; 'Hong Kong protester shot by police sentenced to nearly four years jail', Jessie Pang, Reuters, 23 October 2023, 20231023103419; '5 jailed for up to 3 years and 1 month over false imprisonment of plainclothes police officer during 2019 protest', Hans Tse, Hong Kong Free Press, 11 October 2023, 20231012094125; 'Hongkonger jailed for 2.5 years for rioting during 2019 protest when she was 16', Hillary Leung, Hong Kong Free Press, 19 September 2023, 20230920135710; 'Hong Kong activist Wong Ji-yuet jailed for 37 months for rioting in 2019', James Lee, Hong Kong Free Press, 13 July 2023, 20230714105817; 'Hong Kong protester who hid from authorities jailed for 4 years over rioting and perversion of justice', Hillary Leung, Hong Kong Free Press, 11 September 2023, 20230913093159; '8 jailed for up to 45 months for rioting near PolyU during Hong Kong protests in 2019', Hillary Leung, Hong Kong Free Press, 29 June 2023, 20230630092213; '4 Hong Kong men jailed for up to 4 years and 9 months for rioting linked to 2019 PolyU siege', Kelly Ho, Hong Kong Free Press, 9 June 2023, 20230621090625; '13 Hongkongers convicted of rioting over 2019 protests, including one who said he was a photojournalist', Peter Lee, Hong Kong Free Press, 23 May 2023, 20230523094337; '10 Hong Kong protesters jailed for up to 4 years and 10 months over riot linked to 2019 PolyU siege', Peter Lee, Hong Kong Free Press, 16 May 2023, 20230517132102; '8 Hong Kong protesters jailed for up to 34 months over rioting in 2019 protest', Peter Lee, Hong Kong Free Press, 17 April 2023, 20230420082758

<sup>475</sup> In particular, see 'The Hong Kong 2019 Protest Movement: A Data Analysis of Arrests and Prosecutions', Georgetown Center for Asian Law, 26 October 2023, pp. 52 – 54, 20231101134456

<sup>476</sup> 'Hong Kong appeal court orders retrial of 4 cleared of rioting, calling the original judge "plainly wrong"', Irene Chan, Hong Kong Free Press, 14 July 2023, 20230717094909; 'Data analysis: How Hong Kong convicted 200 people for rioting during the 2019 protests and unrest', Peter Lee, Hong Kong Free Press, 7 April 2023, 20230420075946; 'Hong Kong Democratic Party chair barred from leaving city as justice dept. appeals acquittal in 2019 protest case', Kelly Ho, Hong Kong Free Press, 7 December 2022, 20221212142513; 'Hong Kong

their decisions,<sup>477</sup> and have been criticised in Chinese media in cases where they were perceived to be biased toward the pro-democracy movement.<sup>478</sup> Individuals convicted of politically related offences, including those involved in the protest movement, are reportedly subject to a program of 'de-radicalisation' in prison.<sup>479</sup> Participants reportedly learn to "disengage from radical thoughts and violent behaviours progressively,"<sup>480</sup> as well as about the national security law, traditional values and Chinese history.<sup>481</sup>

## The National Security Law

Please see COISS Hong Kong National Security Law Thematic Brief (July 2022) for detailed information on the legal framework and implementation: 'Hong Kong National Security Law Thematic Brief (July 2022)', Country of Origin Information Services Section (COISS), 12 July 2022, [20220722165547](#) (Word), [20220712152806](#) (PDF)

**The National Security Law (NSL) was implemented on 1 July 2020.** It outlaws, in vague terms, 'secession', 'subversion', 'terrorist activities' and collusion with foreign entities.<sup>482</sup> All of the offences are broadly defined. Both 'secession' and 'subversion' can include 'overthrowing', 'undermining' or 'interfering' with the Hong Kong or PRC government.<sup>483</sup> There is no need for force, or the threat of

Democratic Party chair Lo Kin-hei cleared of unlawful assembly charge linked to 2019 PolyU siege, Peter Lee, Hong Kong Free Press, 30 November 2022, [20221212144417](#); 'Hong Kong Timeline 2019-2022: Anti-Extradition Protests & National Security Law', Human Rights in China (HRIC), 16 May 2022, [20230413114011](#); '4 Hong Kong protesters convicted over 2019 illegal assembly, but court questions police handling of evidence', Candice Chau, Hong Kong Free Press, 14 January 2022, [20220117094814](#); 'Hong Kong protests: justice department lodges appeal over court's decision to acquit trio of rioting, arguing it could set far-reaching precedent', South China Morning Post, 21 September 2020, [20200922125133](#); 'Hong Kong protests: justice department lodges appeal over court's decision to acquit trio of rioting, arguing it could set far-reaching precedent', South China Morning Post, 21 September 2020, [20200922125133](#). According to the Georgetown Center for Asian Law, the government has been successful in all appeals over sentencing, 'The Hong Kong 2019 Protest Movement: A Data Analysis of Arrests and Prosecutions', Georgetown Center for Asian Law, 26 October 2023, p. 65, [20231101134456](#)

<sup>477</sup> 'Tougher security measures for Hong Kong courts including enhanced mail inspection, extra police support after judges sent threatening letters', South China Morning Post, 24 November 2021, [20211125093252](#); 'Hong Kong's judiciary under fire over alleged leniency in protest cases: will a sentencing council redress claims of bias and lead to tougher penalties?', South China Morning Post, 25 September 2020, [20200925121457](#); 'Hong Kong judge gives speech from bench decrying harassment faced by him and his colleagues', South China Morning Post, 8 July 2021, [20210709102540](#); 'Hong Kong court grants injunction forbidding doxxing of judicial officials and their families', South China Morning Post, 29 October 2020, [20201030182555](#); 'Judiciary severely condemns intimidations against judicial officers', Government of Hong Kong, 15 November 2021, [20211117140502](#); 'Beijing loyalists target Hong Kong judges after protester acquittals', Channel News Asia, 07 November 2020, [20201113132017](#); 'Condemnations after suspicious white substance sent to Hong Kong's High Court: police say may be protein powder', Candice Chau, Hong Kong Free Press, 6 July 2022, [20220707091527](#)

<sup>478</sup> 'Submission by Human Rights Watch to the United Nations Human Rights Committee in Advance of its review of China (Hong Kong)', Human Rights Watch (HRW), 29 June 2022, [20220630082619](#)

<sup>479</sup> 'Hong Kong prisons work to compel loyalty to China among young activists', Shibani Mahtani, The Washington Post, 8 June 2023, [20230620155316](#); 'Corrections chief rejects 'brainwashing' claims as average daily remands in Hong Kong prisons reaches decade-high', Kelly Ho, Hong Kong Free Press, 23 February 2023, [20230307153555](#)

<sup>480</sup> 'Corrections chief rejects 'brainwashing' claims as average daily remands in Hong Kong prisons reaches decade-high', Kelly Ho, Hong Kong Free Press, 23 February 2023, [20230307153555](#)

<sup>481</sup> 'Former Hong Kong protesters reflect on life behind bars – and a changed city', Thomas Chan, Hong Kong Free Press, 11 September 2022, [20220912123122](#)

<sup>482</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, [20230413124559](#); See an earlier version published by Hong Kong Free Press: 'In full: Official English translation of the Hong Kong national security law', Hong Kong Free Press, 1 July 2020, arts. 20-30, [20200713124208](#) and Chinese state media website Xinhua: 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of China, 1 July 2020, [20200701094622](#); 'How China Dealt a 'Knockout Blow' to Its Opponents in Hong Kong', Tiffany May, The New York Times, 5 February 2023, [20230208093210](#)

<sup>483</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 23, [20230413124559](#)

force, to be involved in the crime and those who provide financial support to people guilty of offences are also guilty of an offence.<sup>484</sup> The offence of 'terrorism' can include acts, plans or even threats to harm the government or a public facility.<sup>485</sup> Depending on the 'seriousness' of the offence, which is also not defined, penalties for any of these offences can range from three years in prison to life in prison.<sup>486</sup> The NSL has attracted international condemnation from human rights organisations,<sup>487</sup> foreign governments,<sup>488</sup> and United Nations bodies.<sup>489</sup>

**The NSL operates separately from Hong Kong Basic Law and may not contain the same legal safeguards.** The NSL was implemented in Annex III of the Hong Kong Basic Law that provides where PRC national laws shall have local effect.<sup>490</sup> The NSL was implemented by promulgation rather than the legislative process, which would have required review by the Hong Kong legislature.<sup>491</sup> The NSL takes precedence over local laws where there is inconsistency.<sup>492</sup> The law applies extra-territorially, including against actions committed in Australia.<sup>493</sup> The NSL is written in the style of PRC laws. The contents are similar in wording and style to Chinese legislation and not the British style familiar in Hong Kong.<sup>494</sup> The law itself allows the PRC government to interpret its provisions and establishes a

<sup>484</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 14, 20230413124559

<sup>485</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, arts. 24ff, 20230413124559

<sup>486</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, chap III, 20230413124559

<sup>487</sup> 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, Overview, 20230310092826; 'Hong Kong: Submission to the UN Committee on Economic, Social and Cultural Rights (2023)', Amnesty International, 17 January 2023, 20230118112538; 'Hong Kong: Submission to the UN Human Rights Committee 135th Session, 27 June 2022 - 29 July 2022', Amnesty International, 31 May 2022, 20220601092851; 'Hong Kong: In the name of national security', Amnesty International, 29 June 2021, 20220309142136; 'Submission by Human Rights Watch to the United Nations Human Rights Committee in Advance of its review of China (Hong Kong)', Human Rights Watch (HRW), 29 June 2022, 20220630082619

<sup>488</sup> 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2023', United Kingdom Foreign, Commonwealth & Development Office, 19 September 2023, 20230920134141; 'EU ANNUAL REPORT ON HUMAN RIGHTS AND DEMOCRACY IN THE WORLD 2022 COUNTRY UPDATES', European Union, 31 July 2023, pp 206 -208, 20231018121515; 'JOINT REPORT TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Hong Kong Special Administrative Region Annual Report for 2022', European Commission, 18 August 2023, 20230824153319; '2023 Hong Kong Policy Act Report', United States Department of State, 31 March 2023, 20230405130323; 2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, pp. 1, 5 - 13, 18, 20 - 22, 40, 20230321165832;

<sup>489</sup> Concluding observations on the third periodic report of China, including Hong Kong SAR, China, and Macao SAR, China', United Nations Committee on Economic, Social and Cultural Rights (CESCR), 6 March 2023, pp. 14 - 18, 20230307164140; 'Concluding observations on the fourth periodic report of Hong Kong, China', UN Human Rights Committee, 27 July 2022, 20220728153244

<sup>490</sup> 'The Constitution of the People's Republic of China - The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China', Government of Hong Kong, 1 May 2021, Instrument 5, p. 126, 20220303123135

<sup>491</sup> Human Rights Watch provides the following explainer: 'The NSL was inserted into Annex III of the Basic Law. Hong Kong's "one country, two systems" constitutional arrangement means that China's national laws do not apply to the city. While article 18 of the Basic Law gives the NPCSC powers to add laws to Annex III, the laws must undergo either legislation or promulgation. Instead of legislation, which would have involved the Hong Kong government introducing the NSL to the then semi-democratic Legislative Council for review, the Hong Kong chief executive Carrie Lam simply issued a legal notice in the Government Gazette, applying the NSL on Hong Kong verbatim. The NSL was the first time that a Chinese law carrying criminal penalties was introduced to Hong Kong through promulgation and without a legislative process.' 'Submission by Human Rights Watch to the United Nations Human Rights Committee in Advance of its review of China (Hong Kong)', Human Rights Watch (HRW), 29 June 2022, 20220630082619

<sup>492</sup> 'In full: Official English translation of the Hong Kong national security law', Hong Kong Free Press, 1 July 2020, arts. 21ff, 20200713124208 cf. 'Criminal Law of the People's Republic of China', 14 March 1997, art. 62, CX168961; see also for full text: 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of China, 1 July 2020, 20200701094622

<sup>493</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, arts. 37, 38, 20230413124559

<sup>494</sup> Note for example, the way penalties are considered, in vague terms, for different levels of seriousness, which are not defined 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, arts. 21ff, 20230413124559 cf. 'Criminal Law of the People's Republic of China', 14 March 1997, arts. 102ff CX168961; see also legal

special prosecution office for these cases.<sup>495</sup> Article 55 of the NSL specifically allows for Hong Kong authorities to ask the PRC government to take jurisdiction when a security case is complex, if circumstances meant that the Hong Kong government was unable to enforce the legislation or when imminent threats to national security have occurred.<sup>496</sup> The 'National Security Committee' set up under the law is protected from 'interference', which is not defined.<sup>497</sup> Its work is not subject to 'disclosure', which is also not defined.<sup>498</sup> Its decisions are not subject to judicial review.<sup>499</sup> Trials for NSL cases may be undertaken without a jury.<sup>500</sup> Judges who hear cases under the law will be specially selected by the Chief Executive (Premier) of Hong Kong in consultation with the central government.<sup>501</sup> Judges serve for one year but may be removed if they make statements which 'endanger national security'.<sup>502</sup> Bail will not be granted in NSL cases unless a judge is satisfied the individual will 'not continue to commit acts endangering national security'.<sup>503</sup>

**Colonial-era 'sedition laws' have also been applied in recent years.** The crime of sedition is contained in section 9 and 10 of the Crimes Ordinance as a criminal offence that prohibits 'any act with a seditious intention, to utter any seditious words, or to print, publish, or display any seditious publications'.<sup>504</sup> While sedition laws are separate from the NSL, in practice, Hong Kong courts have ruled in favour of their linked, or 'tandem' consideration with national security offences<sup>505</sup> which has had implications for further legal procedures such as bail applications.<sup>506</sup> Sedition charges are now

academic analysis: 'Why Beijing must respect Hong Kong courts' interpretation of national security law'.

Professor Simon Young (University of Hong Kong), South China Morning Post, 8 July 2020, 20200713143654

<sup>495</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, arts. 18, 65, 20230413124559

<sup>496</sup> 'National security law: retired Hong Kong judge says it's 'reasonable' for Beijing to take jurisdiction in exceptional cases', South China Morning Post, 14 May 2021, 20210622151107; 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 55, 20230413124559

<sup>497</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 14, 20230413124559

<sup>498</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 14, 20230413124559

<sup>499</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 14, 20230413124559

<sup>500</sup> 'There's no need for jury in security trial, judge rules', The Standard, 21 May 2021, 20210521145007; 'First trial under Hong Kong's national security law under way', Aljazeera, 23 June 2021, 20210701144602; See: 'No jury for Hong Kong's first national security trial: source', France 24, 8 February 2021, 20210302143335; 'First trial of a defendant charged under Hong Kong's national security law 'to proceed without a jury'', South China Morning Post, 9 February 2021, 20210302142005; 'National security trial for Hong Kong media mogul Jimmy Lai to proceed without jury – reports', Hillary Leung, Hong Kong Free Press, 18 August 2022, 20220818140923; A non-jury trial is planned for the trial(s) '47 Democrats,' 'the city's largest national security case to date in which dozens of pro-democracy politicians face up to life in prison:' 'Non-jury trial ordered for Hong Kong's 47 democrats national security case', AFP, Hong Kong Free Press, 17 August 2022, 20220817153806

<sup>501</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 44, 20230413124559

<sup>502</sup> 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, section F1, 20230310092826

<sup>503</sup> 'The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region', Government of Hong Kong, accessed 13 April 2023, art. 14, 20230413124559

<sup>504</sup> 'After Hong Kong activist Tam Tak-chi's conviction, we still don't know what is or is not seditious', Angeline Chan, Hong Kong Free Press, 5 March 2022, 20220307102613

<sup>505</sup> 'Hong Kong court denies bail to woman charged under sedition law over social media posts', Hillary Leung, Hong Kong Free Press, 29 March 2023, 20230405132846; 'Colonial wine from new, authoritarian bottles': Hong Kong re-tools sedition law', Greg Torode and James Pomfret, Reuters, 11 January 2022, 20220629095427; 'Stringent national security bail threshold applicable to other offences, Hong Kong's top court rules', Hong Kong Free Press, 14 December 2021, 20211215093058

<sup>506</sup> 'Explainer: How 3 years of the national security law transformed Hong Kong – Part I', Hong Kong Free Press, 30 June 2023, 20230704101050; 'Hong Kong court denies bail again to preacher facing sedition charges', Hong Kong Free Press, 5 July 2022, 20220706090727; 'Hong Kong court denies bail to man charged over seditious online messages and possession of weapons', Peter Lee, Hong Kong Free Press, 1 July 2022, 20220701101001; 'Hong Kong court denies bail for man accused of publishing seditious posts on Instagram', Peter Lee, Hong Kong Free Press, 30 June 2022, 20220701101105; 'Hong Kong court adjourns sedition case against martial arts coach to July, assistant denied bail', Hong Kong Free Press, 19 May 2022, 20220523105855; 'Stringent national security bail threshold applicable to other offences, Hong Kong's top court rules', Hong Kong

used more frequently than offences under the NSL.<sup>507</sup> Last official figures indicated around 35 individuals had been arrested under sedition laws as of June 2022<sup>508</sup> and approximately 11 individuals sentenced to terms of imprisonment for sedition offences in 2022.<sup>509</sup> Estimates since then indicate approximately a further 28 arrests for sedition offences.<sup>510</sup>

## Implementation

**Hundreds of individuals have been arrested under the NSL since its imposition.** Official statistics reported by the media in December 2023 indicate 285 people have been arrested 'over suspected acts and activities that endangered national security,' and 171 individuals and five companies charged. A further 101 individuals have been convicted or are awaiting sentencing including 32 people charged under the NSL.<sup>511</sup> Information regarding the circumstances and status of those arrested individuals is available from reliable sources including advocacy organisations China File<sup>512</sup> and Human Rights in China,<sup>513</sup> government<sup>514</sup> and media sources.<sup>515</sup> Charges for NSL offences appear to have followed arrests in the majority of cases.<sup>516</sup> Individuals charged with national security

Free Press, 14 December 2021, 20211215093058; 'Ex-editors of Stand News officially charged under Hong Kong's anti-sedition law, denied bail', Kelly Ho, Hong Kong Free Press, 29 December 2021, 20211231104654;

<sup>507</sup> 'Three Years in, Hong Kong's National Security Law Has Entrenched a New Status Quo', Thomas Kellogg and Charlotte Yeung, China File, 6 September 2023, 20231006141028; 'Hong Kong's national security law: 3 years on, more than 160 prosecutions, 8 bounties later, what else can the city expect?', Natalie Wong, South China Morning Post, 13 July 2023, 20230714110146; 'Explainer: How 3 years of the national security law transformed Hong Kong – Part I', Hong Kong Free Press, 30 June 2023, 20230704101050; see similar data reporting for 2022: '2 years of Hong Kong's national security law – explained in data', Lea Mok, Hong Kong Free Press, 30 June 2022, 20220701100548; '1 in 5 arrests by Hong Kong's national security police made under colonial-era sedition offence instead of 4 crimes laid out in Beijing-imposed law', Natalie Wong and Chris Lau, South China Morning Post, 5 July 2022, 20220708100707

<sup>508</sup> 'Explainer: Hong Kong's national security crackdown – month 23', Hong Kong Free Press, 1 June 2022, 20220602131328; Hong Kong Free Press has noted in subsequent monthly updates that the Security Bureau had ceased providing separate figures for sedition offences, see 'Explainer: Hong Kong's national security crackdown – month 27', Hong Kong Free Press, 2 October 2022, 20221004170306

<sup>509</sup> 'Amnesty International Report 2022/23: The state of the world's human rights', Amnesty International, 27 March 2023, p. 127, 20230328142801

<sup>510</sup> According to China File for data until 1 July 2023, 'Three Years in, Hong Kong's National Security Law Has Entrenched a New Status Quo', Thomas Kellogg and Charlotte Yeung, China File, 6 September 2023, 20231006141028

<sup>511</sup> 'Explainer: Hong Kong's national security crackdown – month 41', Hong Kong Free Press, 3 December 2023, 20231204175939; See China File for more detailed data breakdown, until 1 July 2023: 'Tracking the Impact of Hong Kong's National Security Law - August 2023', China File, 8 August 2023, 20231006141623

<sup>512</sup> China File updated relevant data up to 1 July 2023: 'Tracking the Impact of Hong Kong's National Security Law - August 2023', China File, 8 August 2023, 20231006141623; 'Three Years in, Hong Kong's National Security Law Has Entrenched a New Status Quo', Thomas Kellogg and Charlotte Yeung, China File, 6 September 2023, 20231006141028; for previous analysis, see, 'Arrest Data Show National Security Law Has Dealt a Hard Blow to Free Expression in Hong Kong', Eric Yan-ho Lai and Thomas Kellogg, China File, 5 April 2022, 20220420103639

<sup>513</sup> Please note this timeline has not been updated since April 2022: 'Hong Kong Timeline 2019-2022: Anti-Extradition Protests & National Security Law', Human Rights in China (HRIC), 16 May 2022, 20230413114011

<sup>514</sup> 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2023', United Kingdom Foreign, Commonwealth & Development Office, 19 September 2023, 20230920134141; 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2022', United Kingdom Foreign, Commonwealth & Development Office, 12 January 2023, 20230113133343; 'THE SIX-MONTHLY REPORT ON HONG KONG - 1 JULY TO 31 DECEMBER 2021', Foreign and Commonwealth Office (UK), 30 March 2022, 20220404091420; 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JANUARY TO 30 JUNE 2021', United Kingdom Foreign, Commonwealth and Development Office, 13 December 2021, 20211217133628; 'THE SIX-MONTHLY REPORT ON HONG KONG 1 JULY TO 31 DECEMBER 2020', United Kingdom Foreign, Commonwealth and Development Office, 10 June 2021, 20220629141537

<sup>515</sup> '2 years of Hong Kong's national security law – explained in data', Lea Mok, Hong Kong Free Press, 30 June 2022, 20220701100548; Hong Kong Free Press provides monthly updates which are available on CISNET, see the most recent at 'Explainer: Hong Kong's national security crackdown – month 39', Hong Kong Free Press, 30 September 2023, 20231010104919; and for archives of monthly updates, see <https://hongkongfp.com/tag/national-security-explainer/>

<sup>516</sup> However, China File recently reported new data showing a slimmed down 56% charge rate, 'Three Years in, Hong Kong's National Security Law Has Entrenched a New Status Quo', Thomas Kellogg and Charlotte Yeung, China File, 6 September 2023, 20231006141028; 'Arrest Data Show National Security Law Has Dealt a Hard

offences have faced difficulty securing bail, and some may be granted bail with strict conditions.<sup>517</sup> Authorities reportedly have a watch list of residents under investigation for allegedly violating the NSL and they are to be intercepted and arrested if they attempt to leave Hong Kong. At the time of reporting in June 2021, the list purportedly included more than 50 people released on bail.<sup>518</sup> No updated reporting is available.<sup>519</sup> However, there have been reports of individuals being arrested at Hong Kong International Airport in connection with national security offences.<sup>520</sup>

**NSL trials are ongoing and all have proceeded without a jury.** Tong Ying-kit was the first person to be charged under the NSL. He was charged with inciting secession and engaging in terrorism when he apparently rode a motorcycle which carried a black flag with Chinese characters stating the slogan, "Liberate Hong Kong; revolution of our times" during a 1 July 2020 protest.<sup>521</sup> The case was heard by a panel of three judges without a jury.<sup>522</sup> Yong-kit pled not guilty and was sentenced to nine years jail.<sup>523</sup> He dropped his appeal in January 2022 for unknown reasons.<sup>524</sup> The judgment held further significance in finding that the slogan on his flag was 'ultimately a call for secession,' and the Hong Kong government formally stated it was a 'pro-independence expression.'<sup>525</sup> Further NSL convictions

Blow to Free Expression in Hong Kong, Eric Yan-ho Lai and Thomas Kellogg, China File, 5 April 2022, 20220420103639

<sup>517</sup> 'Tracking the Impact of Hong Kong's National Security Law - August 2023', China File, 8 August 2023, 20231006141623 and 'Three Years in, Hong Kong's National Security Law Has Entrenched a New Status Quo', Thomas Kellogg and Charlotte Yeung, China File, 6 September 2023, 20231006141028; 'Explainer: How 3 years of the national security law transformed Hong Kong – Part I', Hong Kong Free Press, 30 June 2023, 20230704101050; '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, pp. 6 – 7, 20230321165832; '2 years of Hong Kong's national security law – explained in data', Lea Mok, Hong Kong Free Press, 30 June 2022, 20220701100548; 'Explainer: Hong Kong's national security crackdown – month 20', Hong Kong Free Press, 3 March 2022, 20220304152454; 'Assumed as criminals': Hong Kong defendants find bail elusive', Suzanne Sataline, Al Jazeera, 26 January 2022, 20220128105915

<sup>518</sup> 'Hong Kong national security police have watch list of residents to be arrested if they try to flee, sources say', South China Morning Post, 28 June 2021, 20210629091725

<sup>519</sup> COISS conducted targeted searches in CISNET, COI databases, open source search engines, government sources and media sources. Freedom House and the US Department of States reported, generally, for 2022 that Hong Kong police are reported to maintain such a watchlist, see 'Freedom in the World 2023 - Hong Kong', Freedom House, 9 March 2023, section G, 20230310092826 and 2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, pp. 25 – 26, 20230321165832; The *South China Morning Post* reported in July 2023 regarding a 'police wanted list' however did not comment on whether persons on that list would face international movement restrictions, 'Exclusive: Dozens of Hong Kong residents' on police national security 'wanted' list, including for crowdfunding drives', Clifford Lo, South China Morning Post, 4 July 2023, 20230705095722

<sup>520</sup> Some sources do not explicitly state the individuals were attempting to depart Hong Kong, 'Hong Kong national security police arrest one more man over alleged conspiracy to fund self-exiled activists', Kelly Ho, Hong Kong Free Press, 6 July 2023, 20230707093427; 'Hong Kong police arrest another person accused of supporting overseas activists', Kanis Leung, AP News, 6 July 2023, 20230707093555; '2022 Country Reports on Human Rights Practices - Hong Kong', United States Department of State, 20 March 2023, pp. 25 – 26, 20230321165832; 'Ex-secretary of Hong Kong protester fund arrested under national security law at airport', Hong Kong Free Press, 10 November 2022, 20221110171401

<sup>521</sup> The slogan was coined by activist Edward Leung in 2016 and commonly used during the anti-extradition bill protests and unrest of 2019, 'Hong Kong pro-democracy activist found guilty under colonial-era sedition law over speech, slogans', Candice Chau, Hong Kong Free Press, 1 March 2022, 20220303091457; 'Freedom in the World 2022 - Hong Kong', Freedom House, 24 February 2022, section F1, 20220225090200; 'National security law: protest slogan 'Liberate Hong Kong' can have multiple meanings, but is it ultimately a call for secession?', South China Morning Post, 28 July 2021, 20210728105944

<sup>522</sup> '3 HK judges ruling first NSL case threatened: city's legal practitioners express strong condemnation', Global Times, 28 July 2021, 20210729140613; 'Hong Kong's First Trial Under National Security Law Hears Closing Arguments', VOA News, 20 July 2021, 20210722154725

<sup>523</sup> 'Hong Kong Timeline 2019-2022: Anti-Extradition Protests & National Security Law', Human Rights in China (HRIC), 16 May 2022, 20230413114011

<sup>524</sup> 'First Hong Kong activist jailed under national security law drops appeal in 'surprise' move', Kelly Ho, Hong Kong Free Press, 13 January 2022, 20220114091701

<sup>525</sup> 'National security law: protest slogan 'Liberate Hong Kong' can have multiple meanings, but is it ultimately a call for secession?', South China Morning Post, 28 July 2021, 20210728105944; 'National security law: scholars, legal experts warn 'Liberate Hong Kong' slogan 'very risky' in wake of secession conviction', South China Morning Post, 29 July 2021, 20210729113416; 'Activist Tong Ying-kit jailed for 9 years in Hong Kong's first national security case', Kelly Ho, Hong Kong Free Press, 30 July 2021, 20220629100734; 'Tong Ying-kit's 9 year

have followed including of activists and students for a range of offences.<sup>526</sup> All trials have been conducted without a jury and have a 100 per cent conviction rate.<sup>527</sup> The largest national security trial, involving the '47 Democrats', commenced on 6 February 2023 with a verdict expected early 2024.<sup>528</sup>

**Overseas pro-democracy activists have been targeted by the authorities.** Hong Kongers living abroad report surveillance and harassment for their political activities.<sup>529</sup> In July 2023, the Hong Kong government issued arrest warrants for eight pro-democracy activists<sup>530</sup> living overseas wanted for offences under the NSL including 'collusion with foreign forces,' 'incitement to secession,' 'incitement to subversion,' and 'subversion.' A reward of one million Hong Kong dollars<sup>531</sup> is offered for information leading to their arrests.<sup>532</sup> The offences pertain to actions taken by the activists after they had departed Hong Kong between late 2020 and 2023.<sup>533</sup> The 'self-exiled' activists are located in Australia, Canada, the United States and the United Kingdom, none of which are likely to facilitate their removal to Hong Kong.<sup>534</sup> While the NSL applies extraterritorially, authorities have conceded they cannot arrest the individuals unless they return to Hong Kong. However they may take further

NSL sentence sets a grim precedent that will open the path to further arrests, prosecutions, and political trials, Hong Kong Watch, 30 July 2021, 20220629100946; The End of Free Speech in Hong Kong, The Atlantic, 27 July 2021, 20210728115243; Hong Kong: Sentencing of Tong Ying-kit deals a hammer blow to free speech, Amnesty International, 30 July 2021, 20220629101059

<sup>526</sup> Please see *China File* for a list of NSL convictions as of 31 December 2022, and consult CISNET for ongoing case update, Tracking the Impact of Hong Kong's National Security Law, China File, 13 March 2023, 20230413115137

<sup>527</sup> Three Years in, Hong Kong's National Security Law Has Entrenched a New Status Quo, Thomas Kellogg and Charlotte Yeung, China File, 6 September 2023, 20231006141028; Hong Kong's national security law: 3 years on, more than 160 prosecutions, 8 bounties later, what else can the city expect?, Natalie Wong, South China Morning Post, 13 July 2023, 20230714110146

<sup>528</sup> Explainer: Hong Kong's national security crackdown – month 41, Hong Kong Free Press, 3 December 2023, 20231204175939; Hong Kong 47: Who's who in the landmark national security trial as closing arguments open, AFP, Hong Kong Free Press, 1 December 2023, 20231201110031; Explainer: Hong Kong's national security crackdown – month 32, Hong Kong Free Press, 5 March 2023, 20230307154814; see CISNET for latest updates

<sup>529</sup> 'We don't feel safe here': Hongkongers in UK fear long reach of Chinese government, Tom Levitt and May James, The Guardian, 17 October 2023, 20231023105123; Hong Kongers step up calls for UK sanctions despite climate of fear, Cheryl Tung, Radio Free Asia (RFA), 5 September 2023, 20230908115006; Hongkongers who moved to UK after national security law was implemented say they are 'living in fear' of Beijing, Caroline Taix (AFP), Hong Kong Free Press, 1 July 2023, 20230703090544; Pursued for Life - Hong Kong's global hunt for fugitives, the National Security Law, and the risk of INTERPOL misuse, Safeguard Defenders, 13 January 2022, 20220119105216. A high profile incident in Manchester, United Kingdom in which a protest was held outside the Chinese consulate and resulted in a protestor being 'dragged into the consulate' and beaten: I was dragged into China consulate, protester Bob Chan says, George Bowden & Tessa Wong, BBC News, 20 October 2022, 20221020171735; Hong Kong protester dragged into Manchester Chinese consulate grounds and beaten up, Lok Lee, BBC News, 18 October 2022, 20221018151830; Protester Is Dragged Into a Chinese Consulate in England and Beaten, Tiffany May, The New York Times, 17 October 2022, 20221018153417

<sup>530</sup> The eight activists are former pro-democracy lawmakers Nathan Law, Ted Hui and Dennis Kwok, lawyer Kevin Yam, unionist Mung Siu-tat and activists Finn Lau, Anna Kwok and Elmer Yuen, Hong Kong police offer rewards for arrests of 8 overseas pro-democracy activists, Zen Soo, AP News, 3 July 2023, 20230704100221

<sup>531</sup> Approximately equivalent to AUD\$202,113 as at 20 October 2023

<sup>532</sup> TNR Watch: Beijing Expands Hunt for Exiled Dissident with Cash Bounties, Freedom House, 9 August 2023, 20230814162119; 'They will live in fear': Hong Kong's John Lee invites 'anyone' to help police arrest wanted overseas democrats, Candice Chau, Hong Kong Free Press, 4 July 2023, 20230705094834; Hong Kong puts a price on the heads of democracy activists, The Economist, 4 July 2023, 20230705094738; Hong Kong national security police issue HK\$1 million bounty each for 8 self-exiled activists, Kelly Ho, Hong Kong Free Press, 3 July 2023, 20230704100331

<sup>533</sup> Hong Kong police offer hefty reward for intel on political exiles, Theodora Yu and Christian Shepherd, The Washington Post, 3 July 2023, 20230704095737

<sup>534</sup> Some of the activists now hold citizenship of those countries, Three Years in, Hong Kong's National Security Law Has Entrenched a New Status Quo, Thomas Kellogg and Charlotte Yeung, China File, 6 September 2023, 20231006141028; Hong Kong's national security law: 3 years on, more than 160 prosecutions, 8 bounties later, what else can the city expect?, Natalie Wong, South China Morning Post, 13 July 2023, 20230714110146; China tells Australia to stop harbouring Hong Kong fugitives as DFAT updates travel advice, Erin Handley, ABC News (Australia), 5 July 2023, 20230705094318; China accuses UK of harbouring Hong Kong fugitives, Simon Fraser, BBC News, 4 July 2023, 20230705094446; Hong Kong puts a price on the heads of democracy activists, The Economist, 4 July 2023, 20230705094738; Australian-based activists Ted Hui and Kevin Yam slam Hong Kong arrest warrants, Erin Handley, ABC News (Australia), 4 July 2023, 20230704133322

actions including freezing Hong Kong based assets.<sup>535</sup> Family members of the overseas activists have been questioned by national security police.<sup>536</sup> Individuals accused of assisting overseas activists have faced arrest for 'endangering national security'.<sup>537</sup>

The first sedition sentence since 1967 was handed down in January 2022. Hong Kong Basic Law provides for rights such as the presumption of innocence, right to a fair trial and judicial independence.<sup>538</sup> However, the judicial procedures for sedition offences have been conducted similarly to NSL trials. The first conviction<sup>539</sup> was made in relation to Kim Chiang Chung-sang who pled guilty to the offences after displaying posters in connection with the 2019 protests.<sup>540</sup> Further convictions followed in the same month for two individuals for conspiring to distribute leaflets advocating Hong Kong independence, and for putting up posters insulting judges involved in NSL trials respectively.<sup>541</sup> In March 2022, the first sedition case was heard in which the defendant, activist Tam Tak-chi, pled not guilty;<sup>542</sup> he was convicted in April 2022 and sentenced to 40 months imprisonment.<sup>543</sup> The conviction attracted criticism over Tam's use of protest slogans<sup>544</sup> which,

<sup>535</sup> 'Hong Kong national security police issue HK\$1 million bounty each for 8 self-exiled activists', Kelly Ho, Hong Kong Free Press, 3 July 2023, 20230704100331

<sup>536</sup> 'Self-exiled Hong Kong democrat Ted Hui's in-laws questioned by national security police – reports', James Lee, Hong Kong Free Press, 12 September 2023, 20230913093058; 'Hong Kong Media Bulletin 2023: Issue No. 9: September 2023', Freedom House, 3 October 2023, 20231003171305; 'Brothers of wanted self-exiled activist Anna Kwok questioned by Hong Kong national security police – reports', James Lee, Hong Kong Free Press, 22 August 2023, 20230824131035; 'Sister-in-law of self-exiled activist Nathan Law questioned by Hong Kong nat. security police – reports', James Lee, Hong Kong Free Press, 21 August 2023, 20230824131146; 'Parents of wanted overseas Hong Kong activist Anna Kwok questioned by national security police – reports', Hong Kong Free Press, 14 August 2023, 20230814162434; 'Hong Kong police widen questioning of relatives of wanted activists', Jessie Pang and Tyrone Siu, Reuters, 20 July 2023, 20230728101033; 'Hong Kong activist Nathan Law's family released after being questioned by national security police – reports', Hong Kong Free Press, 12 July 2023, 20230712100414; 'Nathan Law: Police raid family home of exiled Hong Kong activist', Frances Mao, BBC News, 11 July 2023, 20230712100223

<sup>537</sup> 'Hong Kong police arrest 4 men accused of supporting people overseas endangering national security', AP News, 6 July 2023, 20230706085456; 'Hong Kong police arrest another person accused of supporting overseas activists', Kanis Leung, AP News, 6 July 2023, 20230707093555; 'Sending money, food from Hong Kong to wanted overseas activists may 'support their illegal activities.' Regina Ip says', Mandy Cheng, Hong Kong Free Press, 10 July 2023, 20230712085610

<sup>538</sup> 'The Constitution of the People's Republic of China - The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China', Government of Hong Kong, 1 May 2021, articles 85 and 87, 20220303123135

<sup>539</sup> Noting that a previous conviction was recorded in relation to Hui Pui-ye for 'conspiracy to commit a seditious act' (among other offences) in April 2021, 'China Media Bulletin - Issue No. 153: April 2021', Freedom House, 31 March 2021, 20210428093029; 'Hong Kong man, woman jailed on sedition charges for insulting judges, advocating independence', Brian Wong, South China Morning Post, 30 January 2022, 20220201101135

<sup>540</sup> 'Hongkonger who displayed posters insulting judges overseeing first national security law trial pleads guilty to sedition', Brian Wong, South China Morning Post, 25 January 2022, 20220629102515; 'Hong Kong man jailed for 8 months in first sedition sentencing since 1967 leftist riots', Selina Cheng, Hong Kong Free Press, 31 January 2022, 20220629102817; 'Hong Kong sees first 'seditious publication' jailings since handover', France 24, 30 January 2022, 20220629102931

'China Media Bulletin - February 2022', Freedom House, 22 February 2022, p. 10, 20220224095749

<sup>541</sup> 'Hong Kong man, woman jailed on sedition charges for insulting judges, advocating independence', Brian Wong, South China Morning Post, 30 January 2022, 20220201101135

<sup>542</sup> 'Hong Kong DJ Convicted of Sedition in Watershed Trial', Voice of America (VOA), 1 March 2022, 20220307101441; 'Hong Kong pro-democracy activist found guilty under colonial-era sedition law over speech, slogans', Candice Chau, Hong Kong Free Press, 1 March 2022, 20220303091457

<sup>543</sup> 'Tam Tak-Chi's sedition sentencing "points to a growing trend towards criminalising all forms of dissent in Hong Kong"', Hong Kong Watch, 20 April 2022, 20220513103732; 'Hong Kong activist jailed for sedition in first case since 1997 handover', Reuters, 20 April 2022, 20220629103336

<sup>544</sup> The sedition charges related to remarks made in January, March and July 2020 including the protest slogan, 'liberate Hong Kong, revolution of our times', 'Hong Kong opposition activist Tam Tak-chi denied bail by the High Court in sedition case', South China Morning Post, 17 September 2020, 20200917152918; The NSL case of Tong Ying-kit which ruled the slogan was secessionist was ruled non-binding but was "instructional, convincing and applicable, 'High Court ruling involving Hong Kong protest slogan not binding in sedition case, judge says', Natalie Wong, South China Morning Post, 29 July 2021, 20220629103110