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One City, Two Legal Systems: Hong Kong Judges' Role in Rights Violations under the National Security Law



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One City, Two Legal Systems: Hong Kong Judges' Role in Rights Violations under the National Security Law

Since the National People's Congress Standing Committee of the People's Republic of China imposed the National Security Law¹ on Hong Kong three years ago, authorities have used it to crack down on civil society and repress opposition voices through criminal prosecution, creating a chilling effect felt throughout the former British colony. It has been reported that Hong Kong has over 1,000 political prisoners. Some analysts argue that the law established a de facto parallel legal system where procedural rights are curtailed and substantive rights violated. As participants in this system, judges appointed to handle national security cases contribute to these systemic violations. The United States Government should consider imposing sanctions on judges to counter the erosion of democratic freedoms in Hong Kong. The Hong Kong Human Rights and Democracy Act (Public Law No. 116-76) and the Hong Kong Autonomy Act (Public Law No. 116-149) give the President authority to impose sanctions for this purpose. The U.S. Government has imposed sanctions on judges in other countries, including in 2017 on eight Venezuela judges for "allowing the Executive Branch to rule through emergency decree,"² and in 2019 on two Iranian judges for overseeing "the Iranian regime's miscarriage of justice in show trials"³

I. The National Security Law as a Parallel Legal System

As of May 2022, judges in Hong Kong have convicted 1,198 protesters and democracy advocates, of whom 612 were sentenced to an aggregate of 772 years of imprisonment.⁴ Some of these cases were governed by the procedures set forth in the National Security Law (NSL),⁵ which the National People's Congress Standing Committee enacted in June 2020 in response to the series of large-scale protests in 2019.⁶ By design and in practice, the NSL created a parallel legal system that weakens judicial independence and strips criminal defendants of basic due process protections available in the existing common law system, referenced in the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Basic Law) and which were to continue under the "one country, two systems" framework until at least 2047.⁷ Seeing how the NSL had been applied, four United Nations (U.N.) human rights experts wrote to the Chinese government in October 2021, noting that national security charges should not be used to "justify quelling domestic dissent, limiting protests and curbing criticism by civil society and human

rights defenders.”⁸ The experts further urged the government to repeal the NSL, citing “the law’s fundamental incompatibility with international law and with China’s human rights obligations.”⁹

An integral part of the parallel legal regime is the group of judges appointed to handle national security cases. The NSL authorizes the Hong Kong chief executive to appoint incumbent judges to handle national security cases for a term of one year and requires the judges’ removal if they are deemed to be a threat to national security, the criteria for which are unspecified in the law.¹⁰ The short appointment term and the lack of removal criteria are at odds with principles of judicial independence: The International Bar Association’s Minimum Standards of Judicial Independence provide that “[j]udicial appointments should generally be for life, subject to removal for cause and compulsory retirement at an age fixed by law at the date of appointment”; also, the U.N. Basic Principles on the Independence of the Judiciary suggest that judges should be tenured and that “[a]ll disciplinary, suspension or removal proceedings shall be determined in accordance with established standards of judicial conduct.”¹¹ Where a judicial appointment is for a fixed term, the International Institute for Democracy and Electoral Assistance noted that “[a]s a general rule, . . . longer terms of office combined with prohibition on reappointment will produce a more independent bench . . . , while short terms and eligibility for reappointment may render the judiciary subservient [to the appointing authority].”¹² In an April 2023 letter addressed to the Hong Kong Chief Executive, the U.N. Special Rapporteur on the independence of judges and lawyers wrote that the appointment arrangement under the NSL could contribute to undermining the independence of the judiciary.¹³

A Hong Kong defense lawyer observed that in practice, conviction-oriented judges were rewarded with promotions to higher courts, whereas those who followed traditional common law standards would see their careers stalled.¹⁴ For example, at least two judges were reassigned to handle non-criminal matters after they had acquitted protesters and were subject to criticism by pro-government figures.¹⁵

Besides conferring appointment power on the chief executive, the NSL authorizes political officials to make decisions that affect key aspects of a case.¹⁶ For example, the secretary for justice decides whether a defendant may be stripped of the right to trial by jury, and the chief executive decides whether an act involves national security.¹⁷ The decision of the former is informed by a non-exhaustive list of factors (such as protection of state secrets and personal safety of jurors), and the decision of the latter is not guided by any statutory factors.¹⁸ Importantly, neither of these decisions are subject to judicial or administrative review.¹⁹ As of February 2023, no NSL trial has been conducted in front of a jury²⁰—a departure from the fundamental rights guarantee found in the Basic Law.²¹

When a case is determined to involve national security, the provisions under the NSL supersede existing common law procedures, such as pretrial release, or release on bail.²² Article 42 of the NSL reverses the universal presumption of innocence²³ in bail determination, prohibiting pretrial release unless the judge believes that the defendant will not continue to commit acts endangering national security.²⁴ Again, the law does not specify the factors relevant to such consideration.²⁵ As a result, the number of people held in pretrial detention jumped from 10 percent of the prison population in December 2000 to 35 percent (or 2,751 persons) in September 2022.²⁶ In one case, authorities held defendants in pretrial detention for nearly two years before the trial began.²⁷ Former criminal detainees interviewed in a 2019 study said they would rather be sent to a prison than a pretrial detention facility, given the poor quality of food, amenities, and sanitation.²⁸ The trend of increased pretrial detentions may continue, as the Court of Final Appeal (the highest court in Hong Kong) in December 2021 extended the strict bail conditions to non-NSL offenses that are deemed to have elements concerning national security.²⁹

Significantly, the NSL authorizes the PRC central government to assume jurisdiction in some cases and under unspecified transfer procedures.³⁰ Taken together with the above-mentioned procedural problems, the parallel legal system violates “the right to be tried by ordinary courts or tribunals using established legal

procedures,” as laid out in the U.N. Basic Principles on the Independence of the Judiciary.³¹

II. Known National Security Judges

The chief executive to date has appointed at least 29 judges to hear cases involving national security. The selection process, however, is opaque, and the Chief Executive Office has refused to disclose even the names of most appointees.³² Not only does this lack of transparency diminish the public’s trust in the judiciary, it also undermines judicial independence.³³ Public reporting, however, revealed that the following judges have handled cases that allegedly involve national security:

1. Johnny Chan Jong-herng (陳仲衡);³⁴
2. Patrick Chan Siu-oi (陳兆愷);³⁵
3. Wilson Chan Ka-shun (陳嘉信);³⁶
4. Andrew Chan Hing-wai (陳慶偉);³⁷
5. Stanley Chan Kwong-chi (陳廣池);³⁸
6. Cheng Lim-chi (鄭念慈);³⁹
7. Andrew Cheung Kui-nung (張舉能);⁴⁰
8. Anderson Chow Ka-ming (周家明);⁴¹
9. Carlye Chu Fun-ling (朱芬齡);⁴²
10. Joseph Paul Fok (霍兆剛);⁴³
11. Veronica Heung Shuk-han (香淑嫻);⁴⁴
12. Susan Kwan Shuk-hing (關淑馨);⁴⁵
13. Kwok Wai-kin (郭偉健);⁴⁶
14. Johnson Lam Man-hon (林文瀚);⁴⁷
15. Peter Law Takchuen (羅德泉);⁴⁸
16. Alex Lee Wan-tang (李運騰);⁴⁹
17. Derek Pang Wai-cheong (彭偉昌);⁵⁰

18. Anthea Pang Po-kam (彭寶琴);⁵¹
19. Jeremy Poon Shiu-chor (潘兆初);⁵²
20. Susana Maria D’Almada Remedios (李素蘭);⁵³
21. Roberto Alexandre Vieira Ribeiro (李義);⁵⁴
22. Victor So Wai-tak (蘇惠德);⁵⁵
23. Don So Man-lung (蘇文隆);⁵⁶
24. Frank Stock (司徒敬);⁵⁷
25. Esther Toh Lye-ping (杜麗冰);⁵⁸
26. Adriana Noelle Tse Ching (謝沈智慧);⁵⁹
27. Amanda Jane Woodcock (胡雅文);⁶⁰
28. Ada Yim Shun-yee (嚴舜儀);⁶¹ and
29. Wally Yeung Chun-kuen (楊振權).⁶²

III. Procedural Rights Undermined

Since the law’s enactment, Hong Kong judges have affirmed and extended NSL provisions in ways that undermine procedural rights despite constitutional protections under the Basic Law. Illustrative cases are as follows:

a. Tong Ying-kit: First NSL Case That Set Worrying Trend

As the first NSL case, Tong Ying-kit’s trial signaled the beginning of routine denial of bail and jury trial by authorities. On July 1, 2020 (the anniversary of Hong Kong’s handover), Tong Ying-kit staged a protest in which he rode a motorcycle carrying a flag bearing the popular protest slogan “Liberate Hong Kong, Revolution of Our Times.”⁶³ As he drove through the police checkpoints, his motorcycle collided with three officers, injuring them.⁶⁴ Authorities charged Tong with “incitement to secession” and “terrorist activities” under the NSL, the basis of the former being the political slogan, and the basis of the latter being the crash.⁶⁵ A panel of three High

Court judges—**Esther Toh, Anthea Pang, and Wilson Chan**—convicted Tong on both charges and sentenced him to a total of nine years in prison.⁶⁶

b. Denial of Bail

Authorities had held Tong in pretrial detention for nearly a year before the trial began. Tong’s bail application was denied by Chief Magistrate **Victor So**,⁶⁷ and the appeal was dismissed by High Court Judge **Alex Lee**, who reasoned that while the NSL’s Article 42 could undermine the rebuttable presumption of bail, it would only affect a limited number of exceptional cases.⁶⁸ Subsequently in a different case, a panel of five Court of Final Appeal judges—**Andrew Cheung, Roberto Ribeiro, Joseph Fok, Patrick Chan, and Frank Stock**—held that the court had no power to review the NSL for constitutionality and that the NSL provision governing bail must be applied in *every* case, effectively broadening the limited application in Judge Lee’s ruling.⁶⁹

c. Denial of Habeas Corpus

Tong also challenged the legality of his pretrial detention through a habeas corpus petition, asserting that the NSL bail provision “incorporates an assumption of guilt and violates the presumption of innocence and the presumption of bail”⁷⁰ High Court Judges **Anderson Chow** and **Alex Lee**, after reciting that the NSL contained provisions that protected fundamental rights, denied Tong’s petition.⁷¹

d. Denial of Jury Trial

In February 2021, the then-Secretary for Justice Teresa Cheng invoked NSL Article 46(1) and issued a certificate directing that the case be tried without a jury due to alleged concerns for jurors’ safety and impairment of the administration of justice.⁷² Judge **Alex Lee** denied Tong’s application for leave to seek judicial review of the certificate, holding that the Secretary for Justice had sole discretion to issue the certificate, which was unreviewable absent a narrow set of circumstances.⁷³ One

day before the trial, Court of Appeal Judges **Jeremy Poon, Johnson Lam Man-hon**, and **Wally Yuen Chun-kuen** affirmed the decision, holding that the Secretary’s prosecutorial discretion took precedence over any right to a jury trial.⁷⁴

Significantly, the courts in both the habeas and jury trial appeals ordered Tong to pay the government’s legal costs, ⁷⁵ which exceeded HK\$1.38 million (approximately US\$175,000).⁷⁶ Lawyers at Hong Kong Rule of Law Monitor observed that “costs orders in this kind of situation are wrong in principle because the litigation involves issues of general public importance, and more importantly, because these costs orders punish those who try to avail themselves of basic human rights protections provided by the law.”⁷⁷

e. Common Law Benefit Curtailed

When presented with a conflict between common law and the NSL, judges generally would resolve it in favor of the NSL, as seen in the case of Lui Sai-yu. A university student, Lui pleaded guilty to “incitement to secession” under the NSL for running an instant messaging channel that advocated for Hong Kong independence.⁷⁸ District Court Judge **Amanda Woodcock** found the circumstances to be of a “serious nature,” as described in the NSL, and sentenced Lui to five years and six months in prison, reducing the term by one-third as a common law benefit of having pleaded guilty,⁷⁹ pursuant to jurisprudence in Hong Kong case law.⁸⁰ The prosecution argued, however, that the sentence should not be lowered to below the statutory minimum of five years.⁸¹ The judge accordingly changed the sentence to five years after a short adjournment.⁸² On appeal, Court of Appeal Judges **Jeremy Poon, Derek Pang**, and **Anthea Pang** affirmed the sentencing.⁸³

f. Police’s Search and Seizure Powers Trump Right to Privacy and Freedom of the Press

Hong Kong courts have ruled that personal information and journalistic materials are not exempt from search and seizure under the NSL regime, although

attorney-client communications continue to be afforded some protection. In August 2020, an estimated 200 police officers raided the headquarters of the pro-democracy newspaper Apple Daily and the residence of the founder Jimmy Lai Chee-ying, seizing roughly 25 boxes of materials and two cellphones belonging to Lai.⁸⁴ Lai applied for judicial review of a July 2022 warrant issued by Magistrate **Peter Law** authorizing the police to search the two phones pursuant to the Implementation Rules for Article 43 of the NSL.⁸⁵ Lai argued that the phones contained journalistic material and therefore should be exempt from search.⁸⁶ His application for judicial review was first denied by Judge **Wilson Chan**⁸⁷ and then by Court of Appeal Judges **Jeremy Poon, Susan Kwan, and Carlye Chu**, who held that while freedom of the press is important, “the police must be able to carry out effective search on anything, including journalistic material, that contains or is likely to contain evidence of an offence endangering national security.”⁸⁸ This holding effectively removes any protection for journalistic material, making the practice of journalism itself a crime, as observed by human rights monitors.⁸⁹

The High Court considered the issue of NSL search and seizure in two other cases, both decided by Judge **Alex Lee**.⁹⁰ In one case, the judge did not find any of the seized materials to be journalistic in nature, but he exempted attorney-client communications from the search.⁹¹ In the other case, the trustees of an association applied for permission to redact from the documents surrendered to the police personal information of donation recipients, including medical information, telephone and residential addresses, and the last four digits of their identification numbers.⁹² The judge denied the request, holding that “the equitable duty of confidence does not extend so as to bar the disclosure to investigatory/regulatory authorities of matters that [are] the province of those authorities to investigate”⁹³ This reasoning, however, fails to acknowledge the reality that the broadly defined criminal offenses in the NSL are being used by Hong Kong authorities to prosecute a range of legitimate activities recognized by international human rights principles.⁹⁴

Moreover, failure to comply with a request to produce documents in an NSL investigation is ground for imprisonment.⁹⁵ In March 2022, Magistrate **Peter Law** sentenced Tonyee Chow Hang-tung and two other members of Hong Kong Alliance⁹⁶ each to four and a half months in prison for refusing to surrender documents to authorities, who alleged that the group was a “foreign agent” for an unidentified organization.⁹⁷ Hong Kong Alliance had been organizing annual vigils since 1990 to commemorate the victims of the violent suppression of the 1989 Tiananmen protests, but it disbanded in 2021 after police made the request that documents be produced.⁹⁸

IV. Substantive Rights Infringed

In addition to the procedural issues mentioned above, NSL judges have overseen a line of cases that punish people for peacefully exercising universally recognized rights, including the following:

a. Freedom of Speech

In September 2022, District Court Judge **Kwok Wai-kin** sentenced five speech therapists to 19 months in prison for publishing three children’s books with “seditious intent.”⁹⁹ The books were stories about sheep being harmed by wolves, where the wolves represented the Hong Kong and PRC governments.¹⁰⁰ The judge found that publishing the books was “a brainwashing exercise” on children and sowed “the seed of instability . . . in the PRC and HKSAR,” adding in dictum that it was “morally wrong for [the defendants] to say that Hong Kong and [the] PRC are separate”¹⁰¹ Previously, Judge Kwok was suspended from handling political cases by the former Chief Justice for making biased comments in a different case, but he was later reinstated by the new chief justice **Andrew Cheung**, who had a record of issuing decisions supportive of the government’s position.¹⁰²

In another case, District Court Judge **Stanley Chan** convicted Ma Chun-man of inciting secession and sentenced him to five years and nine months in prison for using slogans during the 2019 protests that advocated Hong Kong independence.¹⁰³

Ma challenged the judge’s conclusion that his case was of a “serious nature,” and his appeal was heard by Court of Appeal Judges **Jeremy Poon, Derek Pang, and Anthea Pang**.¹⁰⁴ The judges reduced the sentence to five years but maintained that the offense was of a serious nature since “the mere absence of force or threat of force did not make the circumstances less serious.”¹⁰⁵

b. Freedom of the Press

Judge **Kwok Wai-kin** presided over the trial of two editors of the now-defunct news outlet Stand News in which they were accused of publishing 17 articles with “seditious intent.”¹⁰⁶ Defense counsel asserted: “If the press were in danger of breaking the law whenever they criticised the government, then they might just as well just give up their jobs.”¹⁰⁷ The judge displayed a pattern of admitting large volumes of previously unproduced evidence proffered by the prosecution mid-trial.¹⁰⁸ For example, in February 2023, some three months into the trial, the judge admitted four boxes of additional documents over the objection of defense counsel, who argued that the submissions were unfairly late and that she was not afforded the opportunity to review them.¹⁰⁹

c. Freedom of Association

Trustees of the 612 Humanitarian Fund, whose aim was “to provide legal, humanitarian and financial support to protesters during the 2019 protests,”¹¹⁰ were convicted by Magistrate **Ada Yim** for failing to apply for registration for the fund.¹¹¹ The Judge found that the fund was not exempt from registration as a charitable fund due to its “political nature,” dismissing the defendants’ argument that the government’s interpretation of the law violated their right of free association.¹¹²

d. Right of Civic Participation

High Court Judges **Andrew Chan, Alex Lee, and Johnny Chan** presided over a trial in a case where the prosecution accused 47 people of “conspiracy to commit

subversion” for their role in an unofficial primary election in July 2020, which took place ahead of the Legislative Council election.¹¹³ Although the primary proceeded peacefully, the prosecution described it as “an unlawful scheme to seriously disrupt, undermine and interfere with the performance of duties and functions of the political power[s] that be.”¹¹⁴

V. Conclusion

The NSL has created a parallel legal system in which the Hong Kong and PRC governments have unchecked control over the weakened judiciary where basic procedural rights such as jury trial and the presumption of innocence are disregarded. Having undermined the integrity of democratic institutions such as the press and civil society, the NSL regime has become a tool for political repression that has far-reaching effects on freedom in Hong Kong and globally. The Chairs urge the U.S. Government to continue to advocate for the rights of political prisoners in Hong Kong and to devise and implement a robust set of policy tools to counter the PRC’s subversion of universal rights.

¹ The full title of the law is “The Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region.”

² U.S. Department of the Treasury, “Treasury Sanctions Eight Members of Venezuela’s Supreme Court of Justice,” May 18, 2017.

³ U.S. Department of the Treasury, “Treasury Sanctions Two Judges Who Penalize Iranians for Exercising Freedoms of Expression and Assembly,” December 19, 2019.

⁴ Hong Kong Democracy Council, “Hong Kong Reaches a Grim Milestone: 1,000 Political Prisoners,” May 2022, 3, 7, 12.

⁵ Hong Kong Democracy Council, “Hong Kong Reaches a Grim Milestone: 1,000 Political Prisoners,” May 2022, 4.

⁶ Shi Longhong, “Xianggang Guo’an Fa luodi shenggen jian shixiao—Gangqu daibiao weiyuan yixihua” [Hong Kong National Security Law immediately effective upon enactment—speech by one delegate from Hong Kong], *Xinhua*, March 4, 2021.

⁷ See, e.g., Samuel Bickett, “Beijing’s New Year’s Surprise: Awarding Itself Broad New Powers over Hong Kong,” *Samuel Bickett on Hong Kong Law & Policy*, December 31, 2022; Tim Hamlett, “There Must Be a Clear Boundary between Hong Kong’s Two Parallel Legal Systems,” *Hong Kong Free Press*, November 23, 2022; Lydia Wong and Thomas E. Kellogg, “Hong Kong’s National Security Law: A Human Rights and Rule of Law Analysis,” Center for Asian Law, Georgetown Law, February 2021, 15–18; Lydia Wong, Thomas E. Kellogg, and Eric Yanho Lai, “Hong Kong’s National Security Law and the Right to a Fair Trial,” Center for Asian Law, Georgetown Law, June 28, 2021, 10-21.

⁸ Office of the UN High Commissioner for Human Rights, “Hong Kong: Arrests under Security Law Are Serious Concern, UN Experts Call for Review,” October 12, 2021.

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- ⁹ Office of the UN High Commissioner for Human Rights, “Hong Kong: Arrests under Security Law Are Serious Concern, UN Experts Call for Review,” October 12, 2021.
- ¹⁰ 中华人民共和国香港特别行政区维护国家安全法 [Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region], passed and effective June 30, 2020, art. 44.
- ¹¹ IBA Minimum Standards of Judicial Independence, adopted 1982, para. 22; U.N. Basic Principles on the Independence of the Judiciary, adopted on September 6, 1985, by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from August 26 to September 6, 1985, para. 19.
- ¹² Elliot Bulmer, International Institute for Democracy and Electoral Assistance, “Judicial Tenure, Removal, Immunity and Accountability,” 2nd ed., 2017, 8.
- ¹³ Letter from Mandate of the Special Rapporteur on the independence of judges and lawyers Hong Kong Chief Executive, OLCHN2/2023, April 19, 2023, 2.
- ¹⁴ Congressional-Executive Commission on China, “Hong Kong’s Civil Society: From an Open City to a City of Fear,” October 3, 2022, 19–20. See also Chris Lau, “Hong Kong Protests and National Security Law: Are the Courts Becoming Politicised and Are Judgments Biased?,” *South China Morning Post*, September 14, 2020; “指錢禮批保釋令屬法律上出錯 周浩鼎葛珮帆促提覆核,” [Holden Chow and Elizabeth Quat Call for Review, Saying that Bina Chainrai Erred in Granting Bail], *Wen Wei Po*, December 1, 2020.
- ¹⁵ Rachel Wong, “Hong Kong Magistrate Transferred, as Pro-Beijing Lawmakers Hit Out over Protest Rulings – Local Media,” *Hong Kong Free Press*, September 8, 2020; Kelly Ho, “Another Hong Kong Magistrate Reassigned after Criticism of Protest Rulings,” *Hong Kong Free Press*, October 14, 2020.
- ¹⁶ 中华人民共和国香港特别行政区维护国家安全法 [Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region], passed and effective June 30, 2020, arts. 46, 47.
- ¹⁷ 中华人民共和国香港特别行政区维护国家安全法 [Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region], passed and effective June 30, 2020, arts. 46, 47.
- ¹⁸ 中华人民共和国香港特别行政区维护国家安全法 [Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region], passed and effective June 30, 2020, arts. 46, 47.
- ¹⁹ 中华人民共和国香港特别行政区维护国家安全法 [Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region], passed and effective June 30, 2020, arts. 46, 47; Letter from Mandate of the Special Rapporteur on the independence of judges and lawyers Hong Kong Chief Executive, OLCHN2/2023, April 19, 2023, 3, 5.
- ²⁰ “Hong Kong’s Largest National Security Trial to Begin with 47 in Dock,” *Agence France-Presse*, reprinted in *France 24*, February 3, 2023.
- ²¹ Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, passed April 4, 1990, effective July 1, 1997, art. 86.
- ²² 中华人民共和国香港特别行政区维护国家安全法 [Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region], passed and effective June 30, 2020, arts. 42, 45, 62.
- ²³ Universal Declaration of Human Rights, adopted and proclaimed by U.N. General Assembly resolution 217A (III) of December 10, 1948, art. 11; International Covenant on Civil and Political Rights (ICCPR), adopted by U.N. General Assembly resolution 2200A (XXI) of December 16, 1966, entry into force March 23, 1976, art. 14.
- ²⁴ 中华人民共和国香港特别行政区维护国家安全法 [Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region], passed and effective June 30, 2020, art. 42.
- ²⁵ 中华人民共和国香港特别行政区维护国家安全法 [Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region], passed and effective June 30, 2020, art. 42.
- ²⁶ Kari Soo Lindberg, “Hong Kong Jails Holding Record Number of People Awaiting Trial,” *Bloomberg*, November 10, 2022.
- ²⁷ Jessie Pang, “Landmark Hong Kong National Security Trial Opens Two Years after Arrests,” *Reuters*, February 6, 2023; Kelly Ho and Candice Chau, “Hong Kong: Landmark National Security Trial of 47 Democracy Advocates Begins,” *The Guardian*, February 6, 2023.
- ²⁸ Kevin Kwok-yin Cheng and Becky Po-yee Leung, “The Punitive Nature of Pre-Trial Detention: Perspectives of Detainees in Hong Kong,” *Howard Journal of Crime and Justice* 58 no. 2 (June 2019), 148, 153, 154.

²⁹ Court of Final Appeal of Hong Kong SAR, *HKSAR v Ng Hau Yi Sidney*, FAMC No. 32 of 2021, [2021] HKCFA 42, December 14, 2021, paras. 27, 29.

³⁰ 中华人民共和国香港特别行政区维护国家安全法 [Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region], passed and effective June 30, 2020, arts. 55–57.

³¹ U.N. Basic Principles on the Independence of the Judiciary, adopted on September 6, 1985, by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from August 26 to September 6, 1985, para. 5. For an example of how a U.N. special rapporteur has discussed concerns over a parallel judicial system, see Bacre Waly Ndiaye, U.N. Economic and Social Council, Extrajudicial, Summary or Arbitrary Executions: Report by the Special Rapporteur, Mr. Bacre Waly Ndiaye, Submitted pursuant to Commission on Human Rights Resolution 1995/73, E/CN.4/1996/4, January 25, 1996, para. 179.

³² Lin Li, “特首辦拒公開國安法官名單 指涉個人資料 陳文敏斥聞所未聞” [Chief Executive Office Refuses to Disclose List of National Security Judges, Saying that It Is Personal Information, Chan Man-mun Criticizes the Refusal, Saying It Is Unheard Of], *Citizen News*, archived in Internet Archived, December 12, 2020; Rebacca Mammen John, “Hong Kong Special Administrative Region v. Tong Ying-kit,” TrialWatch, Clooney Foundation for Justice, December 2021, 30.

³³ Lin Li, “特首辦拒公開國安法官名單 指涉個人資料 陳文敏斥聞所未聞” [Chief Executive Office Refuses to Disclose List of National Security Judges, Saying that It Is Personal Information, Chan Man-mun Criticizes the Refusal, Saying It Is Unheard Of], *Citizen News*, archived in Internet Archived, December 12, 2020; Rebacca Mammen John, “Hong Kong Special Administrative Region v. Tong Ying-kit,” TrialWatch, Clooney Foundation for Justice, December 2021, 30.

³⁴ Hong Kong SAR Government, “Government Telephone Directory,” accessed March 6, 2023. Candice Chau, “Another Defendant in Hong Kong’s 47 Democrats National Security Case to Plead Guilty, as Trial Delayed by a Week,” *Hong Kong Free Press*, January 17, 2023..

³⁵ Hong Kong Court of Final Appeal, “The Honourable Mr Justice Patrick CHAN Siu-oi, GBM,” accessed March 6, 2023; “No Bail Should Be Granted to Defendants Charged under National Security Law, Says Prosecutor,” *The Standard*, February 1, 2021.

³⁶ Hong Kong SAR Government, “Government Telephone Directory,” accessed March 6, 2023; Candice Chau, “Another Defendant in Hong Kong’s 47 Democrats National Security Case to Plead Guilty, as Trial Delayed by a Week,” *Hong Kong Free Press*, January 17, 2023..

³⁷ Hong Kong SAR Government, “Government Telephone Directory,” accessed March 6, 2023; Candice Chau, “Another Defendant in Hong Kong’s 47 Democrats National Security Case to Plead Guilty, as Trial Delayed by a Week,” *Hong Kong Free Press*, January 17, 2023..

³⁸ Hong Kong SAR Government, “Government Telephone Directory,” accessed March 6, 2023; Chris Lau, “Hong Kong Judge Gives Speech from Bench Decrying Harassment Faced by Him and His Colleagues,” *South China Morning Post*, July 8, 2021.

³⁹ Hong Kong SAR Government, “Government Telephone Directory,” accessed March 6, 2023; Kanis Leung, “Two Found Guilty of Sedition for Clapping in Court,” *Associated Press*, October 27, 2022.

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