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TRIALWATCH MONITORING HONG KONG'S ESCALATING USE OF ITS NATIONAL SECURITY LAW

This statement can be attributed to a spokesperson for the Clooney Foundation for Justice. For further inquiries, please contact media@cfj.org.

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The Clooney Foundation for Justice condemns the decision today to deny bail to 32 of the 47 pro-democracy elected officials, politicians and activists who face charges of “conspiracy to commit subversion” under the 8-month-old National Security Law (NSL). The group of 39 men and 8 women were detained on Sunday; they face life in prison if convicted and will likely remain in detention months if not years until their trial. The facts alleged in the complaint, which CFJ has reviewed, are all directly related to their participation in the political process in Hong Kong—namely, organizing a democratic primary. Such political activity is protected under [international law](#).

CFJ’s TrialWatch initiative, which [monitors criminal proceedings around the world](#), grades their fairness, and [advocates](#) for individuals who are unfairly detained, is monitoring this and other trials against pro-democracy opposition leaders and activists in Hong Kong.

“These sweeping charges strike another blow to Hong Kong’s democracy,” says Amal Clooney, co-President of the Clooney Foundation for Justice. “Using a criminal law to punish individuals for participating in the political process violates their fundamental human rights—as would detaining them without a proper basis.”

Hong Kong authorities have now made [100](#) arrests under the NSL since it became law on July 1, 2020, with [hundreds](#) more arrests on public order charges for those protesting the law and the postponement of the Hong Kong elections. But this is the first mass prosecution under the NSL and is part of the [accelerating assault](#) on fundamental rights in Hong Kong since 2020.

The four-day bail hearing raised a number of alarming issues, potentially impacting the defendants’ rights at trial. On Monday, monitors from TrialWatch, in court for a related case, documented one of the 47 defendants, Leung Kwok-hung, as saying that he had been denied access to his lawyer since his arrest on Sunday and was unable to speak with him privately or review the charges before the bail hearing. He also stated that he had been denied his medication for his heart condition since his arrest.

According to [news reports](#), 18 of the defendants had not met with their lawyers before the bail hearing started on Monday, and a lawyer for nine of the 47 was also [arrested](#) on obstruction charges while attempting to enter the courthouse. The accused were not permitted to [wash or change clothes](#) for days and appeared in court [sleep-deprived](#). Later in the midst of the marathon 14-hour bail hearing, [four individuals](#), including Leung

Kwok-hung, had to be taken to the hospital. [Two more](#) were taken to the hospital on the second day, when hearings lasted more than 10 hours.

A few hours before the decision, the judge rejected the defendants' request to lift reporting restrictions on the bail decision, citing a risk of prejudicing the future trial. As a result, the reasons for bail denial are not known to the public. The next hearing is set for March 31, 2021.

The Clooney Foundation for Justice calls on the authorities to ensure that the charges and trial against these individuals accord with international human rights law and respect the human rights of the accused. This includes the right to a fair trial, the right to a presumption of freedom – rather than detention – pending completion of the trial, the right freedom of expression, the right to peaceful assembly and to participate in the democratic process.

BACKGROUND

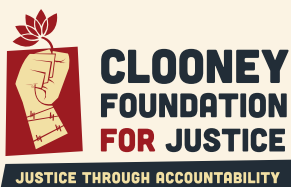
The 47 opposition leaders range in age from 23 to 64 years old. They were initially arrested on January 6, 2021 and were summoned to the police station on Sunday, February 28, 2021 where they were detained ahead of their bail hearing. According to the complaint, they are accused of “conspiring” to organize an electoral primary, with the accusation noting: “But for the postponement of the Election due to COVID-19 pandemic, DI-D47 would have perpetrated further to complete their conspiracy to commit subversion.”

The charges come after months of attacks on Hong Kong's electoral process. In July authorities disqualified a dozen pro-democracy candidates from running in the September elections, and in November, four opposition members of the Legislature Council were expelled and 15 more resigned in protest. Further electoral reforms to ensure only [“patriots”](#) hold power in Hong Kong are expected to be introduced in the coming days in Beijing.

TrialWatch has been monitoring other pretrial proceedings against pro-democracy activists, journalists, and opposition leaders since May 2020. The first of these trials started February 16, 2021. On March 1, 2021, TrialWatch was in court monitoring the first trial of the “Democracy 15” activists, currently facing charges of unlawful assembly for an August 2019 anti-police brutality rally and march.

The National Security Law has been widely criticized including by [United Nations human rights experts](#) for its vague and overly broad provisions, coupled with the severity of the punishment for violations. Since the law took effect on July 1, 2020, 100 people have been arrested under the law although, up until now, only a [handful of individuals](#) had been formally charged (including Jimmy Lai, arrested in August for alleged “foreign collusion”). The February 28th mass detention and charging marks a dramatic shift in the scale and scope of this law's use, with Hong Kong authorities now apparently prepared to use it to criminalize simple participation in the political process.

Under the NSL, as made evident in [Jimmy Lai's recent bail hearing](#), the burden has now shifted from the prosecution to the defendant, who must prove they would not be a national security threat if released on bail. Placing the burden on the accused upends the presumption in favor of release prior to trial, consistent with the presumption of innocence.



The Clooney Foundation for Justice's [TrialWatch](#) initiative monitors and grades the fairness of trials of vulnerable people around the world, including journalists, women and girls, religious minorities, LGBTQ persons and human rights defenders. Using this data, TrialWatch advocates for victims and is developing a Global Justice Ranking measuring national courts' compliance with international human rights standards.