



STATEMENT ON THE CONVICTION OF PRO-DEMOCRACY ACTIVISTS FOR UNLAWFUL ASSEMBLY IN HONG KONG

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

CHARGES

Knowingly Taking Part in an Unauthorized Assembly and Unlawful Assembly, Organizing an Unlawful Assembly under Section 17A(3) of the Public Order Act

MAXIMUM SENTENCE

Five years in prison

CONDUCT CHARGED

Participating in and leading an unauthorized protest march following an authorized demonstration

OUTCOME

Convicted, awaiting sentencing

April 1, 2021

Today, a court in Hong Kong convicted seven prominent pro-democracy activists, including Jimmy Lai, Martin Lee, SC (the Founding Chairman of the Democratic Party) and other former legislators for their role in a protest march in 2019. Two of the nine had plead guilty. They currently await their sentencing on April 16 and face up to five years in prison. UN experts have previously [called](#) for the charges to be dropped because the defendants should not have been subject to “criminal sanctions for taking part in a peaceful protest, even if the regime governing protests requires an authorisation.”

Until the National Security Law came into force on July 1, 2020, the [Public Order Ordinance](#) was the authorities’ tool of choice to silence activists. The Ordinance criminalizes both knowingly taking part in and organizing or assisting in organizing unauthorized public processions; the defendants are charged with both of those offenses. The UN Human Rights Committee has previously [criticized](#) this law as an “excessive restriction” on the rights to freedom of peaceful assembly and expression.

In this case, the authorities alleged that while participants had police approval for a rally on August 18, 2019, they had not secured permission for a subsequent procession as participants emerged from the rally. At trial, the defendants argued that the authorities knew of and did not stop the procession, instead waiting eight months to charge the defendants for this peaceful event. They also contended that the extent of criminal sanctions available under the Ordinance meant that it breached international law and the Basic Law and violated the right to freedom of assembly. The prosecution defended its decision to prosecute the case in a way capable of leading to a five-year maximum sentence, stating that the law was drafted to address a “societal evil,” that there is “no clear dichotomy between peaceful and violent demonstrations,” that the peacefulness of the event anyway “did not absolve” the defendants, and that the law itself was compatible with domestic and international standards.

“Exposing individuals to criminal sanctions of this severity for peaceful protest raises very serious concerns as a matter of international human rights law,” said Tim Otty, QC, a member of the TrialWatch expert panel. **“The decision to prosecute and now convict these high-level activists for exercising their rights without any clear explanation as to the timing of the prosecution is also very troubling. Any imposition of prison terms on those convicted would only exacerbate these concerns and risk further breaches of international law.”**

The nine defendants in this case are among the [“Democracy 15”](#) who were arrested on April 18, 2020 for organizing various pro-democracy protests in Hong Kong from June through October 2019, with different subsets of the 15 going to trial for

each of the protests. TrialWatch, a Clooney Foundation for Justice initiative that [monitors criminal proceedings around the world](#), grades their fairness, and [advocates for individuals who are unfairly detained](#), monitored this trial and will monitor several other upcoming trials of the Democracy 15.

CFJ calls on the Hong Kong authorities not to imprison the defendants in this case for exercising their rights to freedom of speech and peaceful assembly; CFJ also calls upon Hong Kong authorities to cease pursuing criminal penalties for those involved with peaceful protest.

BACKGROUND

The 2019 protests were initially a response to proposed amendments to Hong Kong's [extradition laws](#) that would have allowed the authorities to extradite suspects from Hong Kong to mainland China and other countries with which Hong Kong did not have an extradition treaty. Concerned this move would subject Hong Kongers to arbitrary arrest and unfair trials, thousands started protesting in March 2019, with protests intensifying over the summer even as the government [retreated](#) from the proposed extradition amendments in July 2019. Protests continued throughout 2019, with the protest demands expanding to incorporate electoral reforms and protections for democratic rights in Hong Kong. These protests consumed much of central Hong Kong and led to the arrest of more than [10,000](#) people between the ages of [11 and 84 years old](#); over 2,400 have been charged in connection with these protests, with [234 convictions and 170 sentenced to prison](#) as of February 2021.

This case in particular concerns an August 18 rally that attracted an estimated [1.7 million people](#). The event was organized by the Civil Human Rights Front (CHRF), a coalition of civil society organizations and political parties founded in Hong Kong in 2002 as a platform for pro-democracy activities. The rally was planned to peacefully protest the growing police brutality against demonstrators and as a renewed call for the protestors' "five core demands," namely that the Hong Kong government:

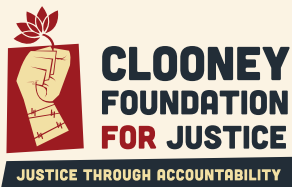
1. Unconditionally withdraw the Extradition Bill;
2. Convene a commission to look into allegations of police brutality during the 2019 protests;
3. Cease referring to protesters as "rioters";
4. Declare amnesty for all protesters; and
5. Realize universal suffrage for election of the Legislative Council and Chief Executive.

By the time this trial against nine prominent activists started on February 16, 2021, mass pro-democracy protests in Hong Kong had largely been [chilled](#) by the introduction of the National Security Law and COVID-related restrictions, although [several hundred people](#) were arrested in 2020 for protesting the National Security Law and the postponement of legislative elections. During the pendency of this trial, authorities took [47 pro-democracy opposition](#) leaders and activists into custody, including one of the defendants in this Democracy 15 trial, Leung Kwok-hung, who was taken back and forth between a bail hearing in the new case and this ongoing trial until the court adjourned further proceedings in this case until the bail proceedings concluded. While the trial was ongoing, the National People's Congress in Beijing [announced plans](#) to amend Hong Kong's electoral system, allowing the Beijing-led Election Committee that appoints Hong Kong's chief executive to also [vet and potentially select](#) Hong Kong's Legislative Council candidates.

Among the defendants in this case, one, Au Nok-hin pled guilty to both public order offenses before the trial started; another Leung Yiu-cheng, pled guilty to the charge of knowingly taking part in an unauthorized assembly. The remaining seven—Martin Lee, Jimmy Lai, Albert Ho, Margaret Ng, Cyd Ho, Lee Cheuk-yan, and Leung Kwok-hung, —pled not guilty to both offenses; all nine will be sentenced on April 16, 2021. Several of the defendants in this case are facing other charges related to their political and pro-democracy activities.

A full TrialWatch Fairness Report by Tim Otty QC will be made available shortly at www.trialwatch.com.

ABOUT THE CLOONEY FOUNDATION FOR JUSTICE'S TRIALWATCH INITIATIVE



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.