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HARSH SENTENCES FOR PEACEFUL PROTESTERS IN HONG KONG RAISE SERIOUS CONCERNS

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

Trial Grade: D

DEFENDANTS

Jimmy Lai, Martin Lee, Albert Ho, Margaret Ng, Cyd Ho, Leung Kwok-hung, Lee Cheuk Yan, Leung Yiu-chung, and Au Nok-hin

CHARGES

Organising and Knowingly Participating in an Unauthorised Assembly under Section 17A(3) of the Public Order Ordinance

OUTCOME

Convicted & Sentenced to terms of prison ranging from 8 to 18 months (with two of the nine defendants given suspended sentences). Subject to appeal by some of the Defendants.

EXPERT REVIEWER

Timothy Otty, QC

July 22, 2021

The trial of nine pro-democracy protestors—including Jimmy Lai, owner of the since shut down *Apple Daily*—raises a number of serious and troubling fundamental human rights concerns, a new [TrialWatch Fairness Report](#) has found.

The defendants, who also included Martin Lee, known as “The Father of Democracy” in Hong Kong, were charged with organising and ‘knowingly participating in’ an ‘unauthorised assembly’ in violation of Hong Kong’s Public Order Ordinance based on their role in a peaceful protest. Significantly, the charges only came eight months after the protest took place—when Chinese and Hong Kong government officials indicated they wanted a crackdown on such demonstrations. The court issued significant prison sentences—including 12 months for Lai—despite the peaceful nature of the assembly.

The report found that the prosecution’s application of severe criminal penalties for alleged violations of Hong Kong’s protest rules raises significant concerns regarding the defendants’ right to peaceful assembly under international law. It also found the prosecution and sentence were a disproportionate response to peaceful activity and noted this case could constitute an abuse of process in light of the delay in charging, the severity of the punishment, and the political context.

“Analysis of this trial raises a number of concerns with Hong Kong’s Public Order Ordinance, which gives the authorities broad authority to ban—and ultimately criminalise—peaceful protest activity,” said TrialWatch Expert Timothy Otty, QC.

“An appeal by some of the defendants is pending and a full assessment will have to await the outcome of that process. However, as matters currently stand the case sends a troubling message to people in Hong Kong that peaceful dissent and peaceful public protest may lead to serious criminal sanctions, regardless of protections they should enjoy under international law,” Otty said.

BACKGROUND

The defendants in this case were participants in an approved assembly on August 18, 2019, which protested against police brutality and reiterated pro-democracy protesters' "five demands," including a request for greater democratic freedom. However, following the peaceful protest, thousands of participants walked through central Hong Kong, which the authorities deemed an 'unauthorized procession.'

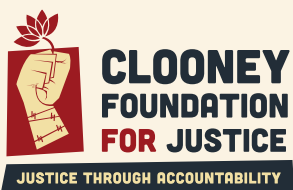
The verdict was the first in a series involving prominent pro-democracy defendants who had also been charged for participating in three other protests in 2019. The same judge presided over all these cases, which have resulted in increasingly severe prison sentences for many of the defendants. A final trial against some of these same defendants for a fourth protest will start on August 19, 2021.

The [Fairness Report](#), authored by Timothy Otty QC with support from the TrialWatch initiative, was based on TrialWatch's monitoring of pretrial hearings in 2020, the 22-day trial in 2021, as well as a review of the verdict and sentencing decisions. In addition to raising concerns regarding the right to peaceful assembly and abuse of process, the report found public statements by Hong Kong authorities, including Chief Executive Carrie Lam and Secretary for Security John Lee, which referred to protests as "terrorism" in the days before the arrests, raised further troubling issues relating to the defendants' right to the presumption of innocence.

These prison sentences for protest cases—where none of the defendants are accused of involvement in any violence—are a disturbing precedent in Hong Kong. The cases and their outcomes reflect the broader trajectory of the crackdown on civil society and political opposition over the past year. As result, the majority of the opposition are either in jail, in exile or have abandoned the political arena.

For a full legal analysis of the trial and explanation of the grade that has been provided, please [see the Fairness Report](#). TrialWatch is also monitoring several other trials in Hong Kong and will be releasing further reports on these cases. Experts for forthcoming reports include human rights lawyer Beatrice Mtetwa of Zimbabwe, Rebecca John, Senior Advocate at the Supreme Court of India, and national-security lawyer Phil Spector of the United States.

ABOUT THE CLOONEY FOUNDATION FOR JUSTICE'S TRIALWATCH INITIATIVE



TrialWatch is an initiative of the Clooney Foundation for Justice. Its mission is to expose injustice, help to free those unjustly detained and promote the rule of law around the world. TrialWatch monitors criminal trials globally against those who are most vulnerable — including journalists, protesters, women, LGBTQ+ persons and minorities — and advocates for the rights of the unfairly convicted. Over time, TrialWatch will use the data it gathers to publish a Global Justice Ranking exposing countries' performance and use it to support advocacy for systemic change.