

8 January 2021

STATEMENT

BHRC condemns mass arrests in Hong Kong as chilling threat to democracy and human rights

The Bar Human Rights Committee of England and Wales (“BHRC”) condemns the arrests that took place in sweeping raids conducted by over 1000 police officers this week in Hong Kong. More than 50 pro-democracy figures were arrested, under the new National Security Law (“NSL”), which was imposed by Beijing in 2020, including lawyers, pro-democracy politicians and campaigners. Those arrested are accused of “organising, planning, committing or participating in subversion,” according to Secretary for Security John Lee Ka-chiu, through their involvement in the pan-democratic camp primary run-off election in July 2020, in which over 610,000 voters are reported to have taken part. He has claimed that those arrested were scheming to undermine and paralyse society and government.

The group includes 16 former lawmakers, and lawyers James To and John Clancey, a US citizen who is Chairman of the Asia Human Rights Commission and member of the Executive Committee of the China Human Rights Lawyers’ Concern Group, as well as legal scholar Benny Tai. Mr Clancey represented one of the pro-democracy groups that organised the primaries and are well known for bringing human rights cases on behalf of Hong Kong citizens. Joshua Wong, the youth pro-democracy activist who is already in prison, was also arrested as part of the sweep. The crackdown included raids on media outlets demanding the surrender of documents. As of 8 January 2021, none of the group had been charged, and most have been released on bail.

BHRC considers these mass arrests constitute a chilling threat to democracy and human rights in Hong Kong. They represent a very serious escalation by invoking the NSL as a clear threat to those who support democracy by peaceful means. Despite the reference to respect for human rights in Article 4 of the NSL, the overly broad definitions within the NSL, including of subversion, endanger human rights and the rule of law in Hong Kong.

The NSL also claims to implement fully the ‘One Country, Two Systems’ policy by respecting the Hong Kong Basic Law. The Basic Law expressly preserves the International Covenant on Civil and Political Rights (“ICCPR”) as applicable to the Hong Kong Special Administrative Region. However, many of the rights protected by the ICCPR, including the prohibition on arbitrary arrest and detention, freedom of thought, freedom to hold opinions and freedom of expression, freedom of association and freedom to participate in the conduct of public affairs and free and fair elections, are all jeopardised by the vague definitions of the NSL. The government of Hong Kong are under an obligation to refrain from committing acts that defeat the object and purpose of the ICCPR.

BHRC calls upon the Hong Kong authorities to stop criminalising peaceful protestors and those exercising their fundamental human rights, as protected by the ICCPR and the Basic Law. In addition, the authorities must ensure that the vague definitions of criminal conduct within the NSL, including subversion or sedition, are interpreted and applied in line with international human rights standards. These vague definitions must not be used arbitrarily or disproportionately to justify the removal of fundamental rights. Any and all limitations on rights must be necessary, the least restrictive, proportionate and consistent with fundamental rights.

BHRC also urges the United Kingdom and the international community to support the unprecedented call of the UN independent experts of 26 June 2020 for decisive measures to protect fundamental freedoms in both China and Hong Kong. In particular, BHRC calls upon the United Kingdom and other governments to support the request for a specific mandate holder to monitor civil and political rights in Hong Kong, and for the establishment of an impartial and independent UN mechanism - such as a UN Special Rapporteur, a Panel of Experts appointed by the Human Rights Council, or a Secretary General Special Envoy - to closely monitor, analyse and report annually on the human rights situation in China and Hong Kong.

BHRC Chair Schona Jolly QC said: *“The reasons given for these mass arrests are spurious. Supposedly ‘paralysing government’ by mobilising peacefully and without threat of violence is not a criminal act. Seeking to win 35 or more seats at the Legislative Council, without violence or threat of violence, is not a criminal act. Instead, these arrests and the consequences which follow, through travel bans, asset freezes and eventual prosecutions, act as a chilling threat to those who support democracy in Hong Kong. The law is being used to abuse fundamental rights.”*

ENDS.

NOTES FOR EDITORS

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1. BHRC has repeatedly expressed concern to the Chief Executive of the Hong Kong Special Administrative Region at the brutal treatment and indiscriminate arrest of peaceful protesters in Hong Kong. We have also expressed our alarm at the imposition by the National People's Congress in Beijing of the National Security Law without consultation with the people of Hong Kong. See <https://www.barhumanrights.org.uk/new-national-security-law-demonstrates-a-chilling-contempt-for-the-principles-fundamental-rights-and-freedoms-in-hong-kong/>.
2. For an interview with our spokesperson, please contact Josie Fathers, Project Officer on coordination@barhumanrights.org.uk or +44 (0)7854 197862
3. For more information on the Bar Human Rights Committee (BHRC), visit our website at <http://www.barhumanrights.org.uk>
4. The Bar Human Rights Committee of England and Wales (BHRC) is the international human rights arm of the Bar of England and Wales, working to protect the rights of advocates, judges and human rights defenders around the world. BHRC is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. It is independent of the Bar Council.