

16 January 2025

LAWASIA STATEMENT OF CONCERN ON THE CONVICTION OF 45 ACTIVISTS BY HONG KONG COURT UNDER THE NATIONAL SECURITY LAW

LAWASIA respects the right of all jurisdictions to enact their own laws, and it also respects the role of the courts of any jurisdiction to independently interpret those laws. It further appreciates that adverse public comments about the laws or courts of a jurisdiction can potentially encroach inappropriately on the sovereignty of that jurisdiction.

LAWASIA is also mindful that many, if not most, jurisdictions have enacted national security laws which have been applied and interpreted in the context of unique issues confronting the jurisdiction in question.

LAWASIA further recognises that Hong Kong SAR maintains a creditable ranking in the World Justice Project Rule of Law Index.¹

It is nevertheless possible that the laws of a jurisdiction, and the consequent application of those laws by the courts of that jurisdiction, can be inconsistent with accepted concepts of human rights and the rule of law which are recognised by a majority of other jurisdictions.

Against this background, LAWASIA issues this Statement with some caution and after careful deliberation.

LAWASIA is concerned about the impact of Hong Kong's National Security Law (NSL) which in December 2024 led to a decision by a Hong Kong Court to convict and sentence 45 activists to up to 10 years in prison² for 'conspiring to commit subversion'. It is noted that the activists had devised a scheme to obtain a majority in the Hong

¹ In rankings published in October 2024, Hong Kong was ranked 23 out of 142 countries worldwide:

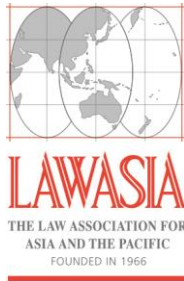
<https://worldjusticeproject.org/sites/default/files/documents/Hong%20Kong.pdf>. LAWASIA further acknowledges the existence of the concept of "one country, two systems" under the Hong Kong Basic Law.

² <https://www.bbc.com/news/articles/cx2l4eynl4zo>

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Kong Legislative Council in the 2020 elections, and thereafter obstruct government actions with a view to advancing a political agenda. The efforts were aspirational, and did not come to fruition.³

LAWASIA previously cautioned against the vagueness of the NSL in earlier statements dated [28 October 2020](#) and [31 July 2023](#) . We observed then that the NSL could be utilized in a manner which would be contrary to the rule of law. We draw attention to our concerns in paragraph 3 of the statement dated 28 October 2020:

“3. LAWASIA is concerned that the broad definitions of these offences, as found in Articles 20, 22 ,24 and 29 of the National Security Law, could violate the principle of legal certainty. It is noted that Article 15(1) of the International Covenant on Civil and Political Rights (“ICCPR”) provides that criminal laws must be sufficiently precise to enable clarity on the types of behaviour that constitute a criminal offence. The wide definition of these offences also raises issues as to whether the National Security Law will meet the test of necessity, proportionality, certainty and non-discrimination, and could have an unintended chilling effect on speech.”

LAWASIA notes that the activists were convicted for mainly peaceful pro-democracy campaigns including advocacy during an unofficial primary election.⁴ While evidence had been led to show that certain accused activists had said they would use violence once elected to implement the scheme, this was not the basis of the charge. In its judgement, the Hong Kong Court states that the relevant provisions of the NSL do not require evidence of any threat of force or violence, nor was the prosecution required to prove that the defendants knew that their intended scheme consisted of unlawful acts.

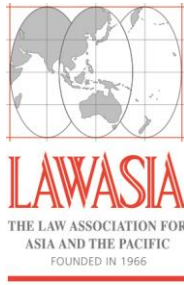
³ <https://www.nbcnews.com/news/world/hong-kong-47-democracy-activists-sentenced-national-security-rcna180290>. The judgement [at 11] makes a specific finding of fact that no allegation of force was made by the prosecution.

⁴ <https://www.nbcnews.com/news/world/hong-kong-47-democracy-activists-sentenced-national-security-rcna180290>. The judgement [at 11] makes a specific finding of fact that no allegation of force was made by the prosecution.

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The application of the NSL by the Hong Kong Court reflects the concerns previously expressed by LAWASIA. It is noted that similar concerns have been expressed by the United Nations High Commissioner for Human Rights.⁵

The NSL, thus applied, has a potentially significant effect on freedom of expression, specifically political expression and peaceful assembly, in Hong Kong. It may dissuade activists and political parties from dissenting and exercising rights that are fundamental to the smooth functioning of a democratic society.

Whilst respecting the right of any jurisdiction to enact its own laws, and whilst further respecting the role of the courts of that jurisdiction in independently interpreting those laws, LAWASIA urges the relevant authorities of the Hong Kong Special Administrative Region (HKSAR) to reconsider the provisions of the NSL so as to fulfil its obligations under the International Covenant on Civil and Political Rights, 1966, and to ensure consistency of the NSL with accepted international concepts of human rights standards governing free speech.

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⁵ <https://www.ohchr.org/en/press-releases/2024/11/hong-kong-grave-concerns-over-sentencing-under-national-security-law>: “The High Commissioner calls for these convictions and sentences to be carefully reviewed by appellate courts against the international human rights obligations binding upon HKSAR. All cases not fully meeting these standards should be quashed.” Note that LAWASIA makes no comment in relation to the sentences which are currently subject to appeal and therefore *sub judice*. Note also that whilst LAWASIA holds consultative status with ECOSOC and UNCITRAL and observer status with WIPO, it nevertheless acts independently of the United Nations in all respects.

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