
# “THE STATE CAN LOCK UP PEOPLE, BUT NOT THEIR THINKING”

## HOW HONG KONG’S NATIONAL SECURITY LAW UNDERMINED HUMAN RIGHTS IN FIVE YEARS

*Front page illustration by Vawongsir*


AMNESTY INTERNATIONAL

# EXECUTIVE SUMMARY

Since the imposition of the National Security Law (NSL) on 30 June 2020, the human rights landscape in Hong Kong has deteriorated at an alarming pace. Civil society has been effectively dismantled, while long-standing rights — including the rights to freedom of expression, peaceful assembly and association — have been severely curtailed.

This briefing paper presents research analysing patterns in arrests, bail decisions and prosecutions under the NSL and other national security legislation. The findings reveal how these laws have eroded key legal safeguards that once formed the foundation for the protection of human rights and the rule of law in Hong Kong. In particular, the research highlights two major concerns: the criminalisation of the legitimate exercise of the right to freedom of expression and the low bail grant rates with prolonged pre-trial detention following arrests.

This paper demonstrates that the risks many first identified in the national security legislation have proven to be well-founded in practice. Key findings include: (1) 85% of concluded cases involved only legitimate expression that should not have been criminalised; (2) the courts denied bail in 89% of national security cases; and (3) the average length of pre-trial detention is 11 months. Taken together, these findings show that the implementation of national security legislation in Hong Kong has violated international human rights law and standards, including freedom of expression and right to liberty.

The findings demand reinvigorated advocacy efforts by civil society and human rights groups, and renewed steps by third governments and UN human rights mechanisms to hold the Hong Kong authorities accountable for ongoing human rights violations.

# 1. BACKGROUND

## 1.1 THE NATIONAL SECURITY LAW

In 2019, the Anti-Extradition Movement emerged as different groups formed and protested against the Hong Kong government's proposed extradition law that could have sent defendants to mainland China. The mass protests, in some cases amounting to up to 2 million people peacefully taking to the streets, later transformed into a pro-democracy movement demanding universal suffrage for election of both the Chief Executive and the Legislative Council.

Seeing the 2019 protests as a threat to its authority, the Chinese government bypassed the city's legislature and introduced the draconian National Security Law, or NSL. The NSL came into effect at 11pm on 30 June 2020.[1]

With its vague language, stringent threshold for bail and system of specially appointed judges,[2] the NSL appeared to be wide open to politically motivated and arbitrary interpretation by the authorities.[3] Indeed, Amnesty International has found the NSL incompatible with international human rights law and standards,[4] a finding which has been echoed by a number of UN human rights mechanisms.[5] Used together with the sedition offence under the Crimes Ordinance and later the Article 23 law (to be explained below), the authorities have effectively weaponised the NSL to deter people from exercising their rights to freedom of expression, association and peaceful assembly.[6]

## 1.2 SEDITION OFFENCE

Sedition was a colonial-era offence under the Crimes Ordinance (CO) enacted by the British government and last used in the 1960s. After returning to Chinese sovereignty in 1997, the Hong Kong government followed suit, refraining from using this offence for more than 22 years.

Nonetheless, since 2020 the authorities have revived this obsolete offence and arrested dozens of dissidents for their "seditious" speech, which carries a maximum sentence of two years' imprisonment. This offence, together with other national security offences under Part 1 and 2 of the CO (e.g. treason), were replaced by the Article 23 law in March 2024.

## 1.3 ARTICLE 23

Despite the devastating impacts of the NSL's entry into force and the reactivated sedition offence, the Hong Kong government went on to expand its legal framework to further suppress civil society.

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[1] Given the short period on 30 June (only 1 hour), it is also acceptable to say that the law came into force on 1 July, the date which marks the city's handover from the UK to China in 1997.
[2] Amnesty International, *Hong Kong: In the Name of National Security* (Index: ASA 17/4197/2021), 29 June 2021, https://www.amnesty.org/en/documents/asa17/4197/2021/en/, pp. 16-17.
[3] Amnesty International, "Hong Kong: Human rights the antidote to repression as national security law kicks in", 1 July 2020, https://www.amnesty.org/en/latest/news/2020/07/hong-kong-human-rights-the-antidote-to-repression-as-national-security-law-kicks-in/
[4] Amnesty International, *Hong Kong: Submission to the UN Human Rights Committee 135th Session* (Index: ASA 17/5663/2022), 31 May 2022, https://www.amnesty.org/en/documents/asa17/5663/2022/en/, pp. 6-7, 9-15, 18-21.
[5] See, for example, UN Human Rights Committee, Concluding Observations on the Fourth Periodic Report of Hong Kong, China, 11 November 2022, UN Doc. CCPR/C/CHN-HKG/CO/4, paras 12-14; also, Special Rapporteurs, Comments on The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, 1 September 2020, UN Doc. CHN 17/2020.
[6] Amnesty International, *Hong Kong: In the Name of National Security* (Index: ASA 17/4197/2021), 29 June 2021, https://www.amnesty.org/en/documents/asa17/4197/2021/en/, pp. 5-21.

According to Article 23 of the Basic Law, the "mini-constitution" of the city, Hong Kong "shall enact laws on its own" to prohibit seven types of national security offences.[7]

On 19 March 2024, the Article 23 bill was passed by the Legislative Council – which is now composed of solely members who could pass a political loyalty screening – and came into force on 23 March 2024 as a new law, the "Safeguarding National Security Ordinance" (SNSO). The legislation introduced China's concepts of "national security" and "state secrets", together with additional ambiguous offences with heavy punishments, in a bid to further legalise restrictions on the rights to freedom of expression and peaceful assembly.[8]

Instead of abolishing the sedition offence as recommended by the Human Rights Committee,[9] the government incorporated it into the SNSO with an even higher criminal penalty: up to 10 years' imprisonment.

## 1.4 THE COMBINED EFFECT – EROSION OF CIVIL SOCIETY

The combined effect of the above three laws has effectively dismantled Hong Kong's civil society. Dozens of civil society groups that were previously active on human rights issues have disbanded, with some citing legal risks and political pressure.[10] Emboldened by these laws, the police have maintained a de facto blanket ban on any form of peaceful protest that criticises government policies or advocates for human rights. Public assemblies are routinely denied approval, or organisers are forced to cancel events due to pressure or after being questioned by the police.[11]

[7] Article 23 states that Hong Kong shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Chinese Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in Hong Kong, and to prohibit political organizations or bodies of Hong Kong from establishing ties with foreign political organizations or bodies.

[8] Amnesty International, "What is Hong Kong's Article 23 law? 10 things you need to know", 22 March 2024, https://www.amnesty.org/en/latest/news/2024/03/what-is-hong-kongs-article-23-law-10-things-you-need-to-know/; Amnesty International, *Hong Kong: Submission to the Security Bureau on Basic Law Article 23 Legislation Public Consultation Document* (Index: ASA 17/7755/2024), 27 February 2024, https://www.amnesty.org/en/documents/asa17/7755/2024/en/

[9] Human Rights Committee, Concluding Observations on the Fourth Periodic Report of Hong Kong, China, 11 November 2022, UN Doc. CCPR/C/CHN-HKG/CO/4, para. 16.

[10] Hong Kong Free Press, "Timeline: 59 Hong Kong civil society groups disband following the onset of the security law", 30 June 2022, https://hongkongfp.com/2022/06/30/explainer-over-50-groups-gone-in-11-months-how-hong-kongs-pro-democracy-forces-crumbled/; Amnesty International, *Hong Kong: In the Name of National Security* (Index: ASA 17/4197/2021), 29 June 2021, https://www.amnesty.org/en/documents/asa17/4197/2021/en/, pp. 9-10.

[11] See, for example, Hong Kong Free Press, "'Emotional meltdown': Hong Kong Labour Day demo cancelled, as activist says security law prevents disclosing why", 26 April 2023, https://hongkongfp.com/2023/04/26/emotional-meltdown-hong-kong-labour-day-demo-cancelled-as-activist-says-security-law-prevents-disclosing-why/; Hong Kong Free Press, "Hong Kong women's group cancels rally night before demo; police say 'violent groups' sought to attend", 4 March 2023, https://hongkongfp.com/2023/03/04/hong-kong-womens-group-cancels-rally-night-before-demo-police-say-violent-groups-sought-to-attend/; inmediahk.net, 黃迺元失聯 4 小時後撤五一遊行申請 杜振豪：連日收滋擾訊息, 26 Apr 2023, https://tinyurl.com/mr3ufces (in Chinese).

# 2. METHODOLOGY

## 2.1 SOURCES OF DATA

To better understand the scope and pattern of NSL enforcement in the past five years, Amnesty International has compiled and analysed publicly available data of national security-related arrests and prosecutions. This information has been consolidated into a database which forms the basis for the analysis presented in this paper.

According to the response provided by the Hong Kong government (to be explained below), from 30 June 2020 (the date of the NSL's enactment) to 17 June 2025, a total of 332 persons were arrested for "cases involving suspected acts or activities that **"*endanger national security*"** under **"*all relevant laws*"**.[12] Of those arrested, the authorities assert, 189 have been charged, including 91 under the NSL and 8 under the SNSO. Of those charged, 165 persons have been convicted, including 76 under the NSL and 6 under the SNSO.[13]

However, the government did not define the terms "endanger national security" and "all relevant laws" in their response. These terms could encompass laws beyond the NSL. In Hong Kong, two other pieces of national security legislation are the CO (Part 1 and 2, before March 2024) and the SNSO (after March 2024), both of which contain multiple offences targeting acts deemed to endanger national security. In some cases, the National Security Department (NSD) under the police force has also arrested people under non-national security ordinary offences, such as possession of offensive weapons. Despite our request, the authorities did not disclose a list of the names of arrestees and defendants, nor did they provide a breakdown of the specific laws invoked in each of the disclosed 332 arrests and 189 prosecutions.

Given the limited official data, the Amnesty International database informing this research relies on publicly available information, including media reports, court documents, government press statements and academic publications. All data have been cross-verified across multiple sources to ensure accuracy.

## 2.2 SCOPE

Given that various provisions of the NSL have significantly influenced the enforcement of other national security-related laws, this paper adopts a broad scope to provide a comprehensive assessment of NSL implementation. The analysis includes individuals who, between 30 June 2020 and 31 May 2025 (thereafter, "research period"), were arrested for and/or charged with any offences under:

1. The NSL;
2. Part 1 and 2 of the CO (before they were replaced on 23 March 2024); or
3. The SNSO (subsequent to its entry into force on 23 March 2024).

This study excludes individuals arrested by the NSD under other laws, as these individuals were not subject to the distinct criminal procedures and trial mechanisms established under the NSL.

Researchers began by reviewing media reports to identify the names of arrestees and defendants. These names were then corroborated with court rulings and judgments published on the Hong Kong Judiciary's official website, where such documentation is available. At the same time, researchers also conducted keyword searches within the Hong Kong Judiciary's online database to identify cases,

[12] Secretary for Security, email to Amnesty International, 19 June 2025, https://www.amnesty.org/en/documents/asa17/9555/2025/en/, para. 21.
[13] Ibid.

which were then cross-referenced with press coverage. Where applicable, government statements and academic and civil society publications were also used to verify case details.

Ultimately, this paper has identified **255 individuals** who meet the criteria outlined above. The table below shows the number of individuals (not cases) targeted under each covered law.[14]

| | NSL | Part 1 & 2 of the CO | SNSO |
|---|---|---|---|
| Arrest | 162 persons | 97 persons | 20 persons |
| Charge | 91 persons | 55 persons | 8 persons |
| Verdict | 78 persons | 43 persons | 6 persons |

*Table 1: Number of persons arrested, charged and having their cases concluded with verdicts under each covered law.*

The 255 individuals identified in this research fall short of the government's reported total of 332 people arrested for "suspected acts or activities endangering national security," revealing a discrepancy of 71 individuals. Even after accounting for five additional individuals arrested between 1 June 2025 (end of the research period) and 17 June 2025 (the government's reporting cut-off), a discrepancy of 66 individuals remains. Possible explanations include the government's inclusion of persons arrested by the NSD under non-national security laws, as well as cases in which individuals were arrested without press notification and/or tried without documentation in publicly accessible court judgments.

On the other hand, although 255 *persons* were identified, the number of *cases* discussed in this paper is more than 255 because some persons were arrested and charged on multiple occasions. To ensure a more accurate analysis, certain parts of this paper use "cases" as the unit of measurement, rather than counting each individual only once. Also, for persons arrested, charged or convicted for multiple offences in the same case, only offences under the above three covered laws will be analysed in this study.[15]

It should also be noted that, although multiple national security offences are stipulated in Part 1 and 2 of the CO, only one of them – namely sedition – had been invoked to arrest and/or charge the individuals identified by this paper. The CO's sedition offence will for the remainder of this briefing paper be referred to as the "old sedition offence".

## 2.3 LIMITATIONS

In light of the security and personal safety concerns of both researchers and interviewees, particularly the risk of being charged with collusion with foreign forces (an NSL crime), this paper is based on desk research alone without conducting interviews with arrestees, defendants or their lawyers.[16]

For the same concerns, Amnesty International researchers did not travel to Hong Kong for the purpose of conducting this research.

[14] The total number of persons arrested, as shown in Table 1, exceeds 255 because some individuals were arrested under more than one applicable law. For example, if a person was arrested for both an NSL offence and an SNSO offence, they would be counted twice — once under the NSL and once under the SNSO.
[15] For example, if a person was convicted of sedition and possession of weapons in the same case, only the former will be analysed and counted in this paper.
[16] It shall be noted that the Hong Kong government labelled Amnesty International as one of the "anti-China organisations" in a press statement issued on 20 March 2024, https://www.info.gov.hk/gia/general/202403/20/P2024032000773.htm

## 2.4 RESPONSE FROM THE HONG KONG GOVERNMENT

On 11 June 2025, Amnesty International shared the findings of this paper with the Hong Kong Secretary for Justice and sought his written response ahead of its publication. The Hong Kong Secretary for Security sent a consolidated response on behalf of the Hong Kong government on 19 June 2025, providing figures of arrests, prosecutions and convictions which were reflected above.

The government responded that "the allegations in the so-called 'findings' are a gross distortion of the reality and in complete disregard of the indisputable positive effects brought about by the HKNSL and other laws safeguarding national security in the HKSAR[17] over the past five years."[18] It stressed that the implementation of the NSL has "restored the enjoyment of rights and freedoms which many people in the HKSAR had been unable to enjoy…"[19] Summaries of specific responses were reflected, where relevant, in the text of this paper. The full text of the response can be accessed on Amnesty International's website.[20]

[17] HKSAR is the abbreviation of the full name of Hong Kong, i.e. Hong Kong Special Administrative Region
[18] Secretary for Security, email to Amnesty International, 19 June 2025, https://www.amnesty.org/en/documents/asa17/9555/2025/en/, p.1.
[19] Ibid, para. 4.
[20] https://www.amnesty.org/en/documents/asa17/9555/2025/en/

# 3. PUNISHMENT OF LEGITIMATE EXERCISE OF FREEDOM OF EXPRESSION

## 3.1 INTERNATIONAL STANDARDS PROTECTING FREEDOM OF EXPRESSION

Article 19 of the International Covenant on Civil and Political Rights (ICCPR), a treaty applicable to Hong Kong and incorporated into its domestic laws through the Hong Kong Bill of Rights, guarantees everyone the right to freedom of expression, including freedom to seek, receive and impart information and ideas of all kinds. Freedom of expression is also explicitly protected under Article 27 of Hong Kong's Basic Law.

While national security is a legitimate ground for restricting certain forms of expression under Article 19 of the ICCPR, such restrictions must be provided by law and be both necessary and proportionate. As interpreted by the UN Human Rights Committee, restrictions must conform to the three-part test of legality, legitimate aim and necessity/proportionality set out in Article 19(3). Under the principle of proportionality, they must be the least intrusive means of achieving their intended protective function.[21] The principle of proportionality must take account of the form of expression and the means of its dissemination. The Committee further emphasized that even deeply offensive speech remains protected under the ICCPR.[22]

As regards sedition laws, the Committee urges that "extreme care" must be taken by states to ensure that these conform with the strict requirements of legality, necessity and proportionality where they curb expression.[23] It specifically mandates that they should not be used to "suppress or withhold from the public information of legitimate public interest that does not harm national security or to prosecute journalists, researchers, environmental activists, human rights defenders, or others, for having disseminated such information."[24]

This is in keeping with the Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, which are authoritative principles developed by the International Commission of Jurists.[25] These provide that 'national security' can only be invoked to limit certain rights in order to "protect the existence of the nation or its territorial integrity or political independence against force or threat of force."[26] In other words, restrictions on rights without this condition being met cannot be considered as proportionate to the aim of protecting national security. They also provide that national security cannot be used to invoke restrictions to "prevent merely local or relatively isolated threats to law and order."[27] Finally, they are categorical that "the systematic violation of human rights undermines true national security and may jeopardize international peace and security."[28]

The Johannesburg Principles on National Security, Freedom of Expression and Access to Information are equally clear that restrictions on expression cannot be justified on the grounds of national security unless their "genuine purpose and demonstrable effect is to protect a country's existence or its territorial integrity against the use or threat of force, or its capacity to respond to the use or threat of force, whether from an external source, such as a military threat, or an internal source, such as

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[21] Human Rights Committee, General Comment No. 34 on Article 19: Freedoms of opinion and expression, 12 September 2011, UN Doc. CCPR/C/GC/34, para. 34.
[22] Ibid, para. 11.
[23] Ibid, para. 30.
[24] Ibid.
[25] International Commission of Jurists, Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights, https://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf
[26] Ibid, principle 29.
[27] Ibid, principle 30.
[28] Ibid, principle 32.

incitement to violent overthrow of the government."[29] They also provide that "a restriction sought to be justified on the ground of national security is not legitimate if its genuine purpose or demonstrable effect is to protect interests unrelated to national security, including, for example, to protect a government from embarrassment or exposure of wrongdoing, or to conceal information about the functioning of its public institutions, or to entrench a particular ideology, or to suppress industrial unrest."[30]

The Rabat Plan of Action, issued by the UN Office of the High Commissioner for Human Rights, outlines clear criteria that are intended to assist government officials and others in determining when speech may justifiably be restricted. It establishes three categories of justifiable restriction:

> **"… a clear distinction should be made between three types of expression: expression that constitutes a criminal offence; expression that is not criminally punishable, but may justify a civil suit or administrative sanctions; expression that does not give rise to criminal, civil or administrative sanction but still raises concern in terms of tolerance, civility and respect for the rights of others."[31]**

Paragraph 29 of the Rabat Plan introduces a six-part "threshold test" that should be applied before criminalising an expression:[32]

1. **Context:** Whether particular statements are likely to incite discrimination, hostility or violence, considering the speech act within the social and political context prevalent at the time
2. **Speaker**: Consider the speaker's position or status in the society, specifically his/her standing in the context of the audience
3. **Intent:** Negligence and recklessness are not sufficient for an act to be an offence
4. **Content and form:** Examine the degree to which the speech was provocative and direct
5. **Extent:** Consider the reach of the speech act, its public nature, its magnitude and size of its audience.
6. **Likelihood, including imminence:** Some degree of risk of harm must be identified. There needs to be a reasonable probability that the speech would succeed in inciting actual action

Accordingly, international law asserts that expressions must cross a high threshold before it can be legitimately restricted. The expression must be intentional, likely to lead to imminent harm and of a nature that incites hatred or violence. Non-violent political dissent, criticism of government policies, advocacy for democratic reform and remembrance of historical events are all forms of expression protected under international law.

## 3.2 NATIONAL SECURITY LAWS USED TO VIOLATE FREEDOM OF EXPRESSION

To assess the extent to which the national security legislation has been used to target legitimate exercise of the right to freedom of expression, Amnesty International examined all cases that have concluded in court verdicts. This subset was chosen because each concluded case comes with a

[29] The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, principle 2(a).
[30] Ibid. principle 2(b).
[31] Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, (UN Doc. A/HRC/22/17/Add.4), para. 29.
[32] Although the Rabat Plan was created specifically to interpret Article 20(2) of the ICCPR, which prohibits advocacy of "national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence", its six-part test is often invoked more broadly as a tool to assess the legitimacy of restrictions on speech, including under Article 19 of the ICCPR—which allows limitations for national security, public order, etc. In short, the Rabat Plan remains a persuasive interpretive framework grounded in international human rights standards for balancing freedom of expression against national security interests.

publicly available court judgment and comprehensive media coverage, providing sufficient factual detail for analysis. Cases that involved only arrests without formal charges, or those still pending trial, were excluded due to the very limited information available.

In the research period, 78 cases involving NSL offences had concluded with verdicts. If the old sedition offence and the SNSO are also included, a total of 127 cases reached their verdicts.

Relying on Article 19 of the ICCPR and the Rabat Plan's six-part threshold test, Amnesty International sought to determine whether the expression at issue in each of the 127 cases was wrongly restricted, and so resulted in violation of international human rights standards. This analysis is outlined below:

## CATEGORISING EXPRESSION

Applying the Rabat Plan's principles, Amnesty International has categorised expression documented in each identified case as either **legitimately criminalised** or **wrongly criminalised.**

The core principle is that expression was only assessed to be legitimately criminalizable where it reached the threshold of using violence or having direct plans or advocacy of violence. For example, expression was categorised as legitimately criminalised in cases where individuals expressed their views with the use of violence,[33] formulated detailed plans to commit violence, incited the actual killing of others[34] or described how to use violence in specific terms.[35]

At least 11 cases involved possession or provision of weapons. Due to limited information, it is difficult to ascertain whether these weapons were intended for use in connection with the individuals' expression. Some of the alleged weapons—such as air guns—may be possessed for legitimate reasons, including recreational use or as collectibles. However, to ensure the findings remain as indisputable as possible, this research acknowledged and, giving the authorities the benefit of the doubt, assumed that they had legitimate grounds to prosecute those individuals who were arrested while in possession of weapons, found with weapons during police searches or who offered weapons to others.

On the other hand, based on the Rabat Plan's principles, expression would be assessed as **wrongly criminalised** even when the following circumstances arose:

- Possession of non-functional or symbolic items: Individuals found with symbolic objects, such as empty tear gas canisters previously fired by police, were not deemed to have incited violence.[36]
- Abstract or vague references to violence: Vague, hyperbolic or rhetorical statements such as "Hongkongers must form an army and found a nation," "armed uprising," or "a revolution is needed", unless accompanied by an imminent and concrete plan for violence.

[33] For example, Tong Ying-kit rode a motorcycle bearing a political flag at high speed and collided with a group of police officers during a 2020 protest. He was convicted of incitement to secession and terrorist activities under the NSL in 2021. See *HKSAR v Tong Ying Kit* [2021] HKCFI 2200.

[34] For example, four individuals used a Telegram group to advocate for violent means and weapons to attack police officers and public officials. They proposed making homemade petrol bombs, encouraged killing people with "slave mentality", advised others to purchase or smuggle weapons through "experienced individuals", and suggested that if an attack was necessary, it should involve "slashing the throat in one strike". The police later found crossbows, arrows and air guns at their residences.

[35] Ibid.

[36] For example, activist Andy Li, who was charged with "colluding with foreign powers" for asking foreign countries to impose sanctions on China or Hong Kong, was allegedly found to be in possession of used and empty weapons, including 232 used tear gas canisters, seven used sponge grenades, and 38 used rubber bullets. See Hong Kong Free Press, "Hong Kong activist Andy Li remanded in custody following first court appearance over security law charge", 7 April 2021, https://hongkongfp.com/2021/04/07/hong-kong-activist-andy-li-remanded-in-custody-following-first-court-appearance-over-security-law-charge/

- Cursing or offensive language: Cursing and emotional complaints, however offensive they were; examples of statements include "death to all bad cops and their families" (黑警死全家) and "death to the entire [Chinese Communist] Party" (全黨死清光).[37]
- Commemoration of deceased individuals: Acts of remembrance, including the commemoration of individuals who died after stabbing a police officer.

## 85% INVOLVED ONLY LEGITIMATE EXPRESSION

Based on the above criteria, Amnesty International found that, of the 78 concluded cases under the NSL, at least 66 (84.6%) involved only legitimate expression that should not have been criminalised, with no evidence of violent conduct or incitement. When all national security cases are considered (i.e. those under the NSL, SNSO, and the old sedition offence), then out of a total of 127 cases, at least 108 (85.0%) similarly involved legitimate forms of expression that were wrongly criminalised. These cases fall short of the high threshold required for criminalisation under international standards.

In one of these instances, Protester Ma Chun-man was jailed for his speech under the NSL. According to the court judgment, between August and November 2020, he was recorded chanting political slogans and being interviewed by journalists on 20 occasions.[38] His speech included phrases such as "Hong Kong independence, the only way out" (香港獨立・唯一出路), "Liberate Hong Kong, revolution of our times" (光復香港・時代革命) and "Armed uprising" (武裝起義). However, he never used violence or laid out any concrete plan to use or incite violence.

Of the 20 occasions, Ma acted alone in 14, while the remaining 6 involved just one other protester.[39] Ma was not a member of any political party, nor did he participate in any election. As the defence lawyer put it, Ma lacked influence – he was usually alone, and the bystanders showed little response and were often silent.[40] No bystanders had been incited by Ma to conduct any violent acts. Amnesty International asserts that on this basis, his expression could not be criminalised under international standards, yet he was convicted of "inciting secession" in 2021 and sentenced to five years and nine months' imprisonment.

> **"… national security and/or counter terrorism legislation with penal sanctions should never be misused against individuals exercising their rights to freedom of expression and freedom of association and of peaceful assembly, and should not be misused to deprive such individuals of their personal liberty through arrests and detention. These rights are protected under ICCPR and the application of criminal law to the non-violent exercise of these rights would for most purposes be contrary to the Covenant."**
>
> *Five UN special procedures mandate holders (Ref.: AL CHN 1/2023, p. 9).*

In another striking example, Jimmy Lai, founder of the pro-democracy newspaper Apple Daily, and six senior staff members of the newspaper were targeted for their journalistic work. All seven were charged with "conspiracy to collude with foreign forces" under the NSL and the old sedition offence. The prosecution alleged that they used the media platform to publish 161 seditious articles which called on the public to take to the streets, incited hatred against the government, corrupted the minds

[37] For example, Tam Tak-chi was convicted of sedition in 2022 for his public speech including "death to all bad cops and their families" (黑警死全家). See *HKSAR v Tam Tak-chi* [2022] HKDC 208 (in Chinese).
[38] *HKSAR v Ma Chun-man* [2021] HKDC 1325, para. 5 (in Chinese).
[39] *HKSAR v Ma Chun-man* [2021] HKDC 1325, para. 75 (in Chinese).
[40] *HKSAR v Ma Chun-man* [2021] HKDC 1325, para. 57 (in Chinese).

of vulnerable individuals and appealed to foreign countries to impose sanctions on China and Hong Kong.[41]

Jimmy Lai pleaded not guilty to all charges and was held in pre-trial detention for 1093 days – almost three years – before his trial started in December 2023. As of 31 May 2025, it had not yet been concluded. The six staff members – CEO Cheung Kim Hung, editor-in-chief Ryan Law, executive editor-in-chief Lam Man-chung, associate publisher Chan Pui-man and editorial writers Yeung Ching-kei and Fung Wai-kong – pleaded guilty to the NSL collusion charge after being detained for between 488 and 521 days, and the government dopped the sedition charges against them.

Notwithstanding the guilty pleas, Amnesty International considers that none of the charges against these seven individuals should ever have been brought in the first place, as they relate to legitimate exercises of freedom of expression with no incitement to violence.

In another case, Stand News, an independent media website rated as the most credible online news source in Hong Kong in 2016 and 2019 according to university surveys,[42] was also targeted after Apple Daily was dissolved. The prosecution against Stand News journalists was based on 17 allegedly seditious articles, including news reports, interviews and opinion pieces. After more than 300 days of pre-trial detention and months of trial, editor-in-chief Chung Pui-kuen and acting chief editor Patrick Lam were convicted in August 2024 of the old sedition offence and sentenced to 21 months and 11 months in jail, respectively.[43]

As stressed by the UN Human Rights Committee, any "penalization of a media outlet, publishers or journalist solely for being critical of the government or the political social system espoused by the government can never be considered to be a necessary restriction of freedom of expression."[44]

In its written response to Amnesty International, the Hong Kong government stated that Hong Kong residents continue to utilise various means to express their views on government policies and public affairs, but "many of the rights and freedoms are not absolute".[45] It also cited Hong Kong court rulings in a well-known case to attempt to demonstrate that the current restriction on freedom of expression does not exceed what is "reasonably necessary" for the protection of national security.[46]

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[41] The Witness, 黎智英案開案陳詞整合　控方一連三日陳詞有何重點？, 6 January 2024, https://tinyurl.com/5x4jzc4b (in Chinese).
[42] Ming Pao, 蘇鑰機：香港傳媒公信力：低處未必最低, 28 November 2019, https://news.mingpao.com/pns/%E8%A7%80%E9%BB%9E/article/20191128/s00012/1574878673471 (in Chinese).
[43] Amnesty International, "Hong Kong: Conviction of Stand News journalists another attack on press freedom", 29 August 2024, https://www.amnesty.org/en/latest/news/2024/08/hong-kong-conviction-of-stand-news-journalists-another-attack-on-press-freedom/
[44] Human Rights Committee, General Comment No. 34 on Article 19: Freedoms of opinion and expression, 12 September 2011, UN Doc. CCPR/C/GC/34, para. 42.
[45] Secretary for Security, email to Amnesty International, 19 June 2025, https://www.amnesty.org/en/documents/asa17/9555/2025/en/, paras 6-7.
[46] Ibid, paras 8-9.

# 4. SYSTEMATIC DENIAL OF THE PRESUMPTION OF BAIL

## 4.1 REMOVAL OF PRESUMPTION OF BAIL BY THE NSL

Under international human rights law and standards, and in accordance with the right to liberty and the presumption of innocence, there is a presumption that people charged with a criminal offence will not be detained while awaiting trial. For example, Article 9(3) of the ICCPR states that:

> **"Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement."**

Under international law, detention pending trial is a preventive measure aimed at averting further harm or obstruction of justice, rather than a punishment.[47] It must not be used for improper purposes or constitute an abuse of power.[48] It must not last any longer than is necessary. There must be an ongoing examination of the continuing lawfulness and necessity of detention in each individual case.[49]

In its General Comment on the right to liberty and security of person, the UN Human Rights Committee provides that "detention in custody of persons awaiting trial shall be the exception rather than the rule." In addition, "it should not be the general practice to subject defendants to pretrial detention. Detention pending trial must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime. The Committee stresses that pretrial detention "should not be mandatory for all defendants charged with a particular crime, without regard to individual circumstances."[50]

Before the enactment of the NSL, there was a long-established presumption in favour of bail in Hong Kong under the Criminal Procedures Ordinance (CPO). However, Article 42 of the NSL has aggressively dismantled this legal protection by stipulating that:

> **"No bail shall be granted to a criminal suspect or defendant unless the judge has sufficient grounds for believing that the criminal suspect or defendant will not continue to commit acts endangering national security."**

In effect, Article 42 establishes a presumption **against** bail in national security cases, by imposing a specific exception to the traditional rules governing the grant and refusal of bail. Further, the use of the word 'continue' appears to disregard the presumption of innocence.

In 2021, deferring to the authorities in the case of *HKSAR v Lai Chee Ying*, the Court of Final Appeal (CFA) – the apex court of the city – affirmed that the long-standing presumption in favour of bail was "excluded" and "displaced" by the NSL.[51] The CFA cited Article 62 of the NSL, which expressly provides that the NSL "shall prevail where provisions of the local laws … are inconsistent with this

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[47] *López Álvarez v Honduras*, Inter-American Court (2006) §69; *Peirano Basso v Uruguay* (12.553) Inter-American Commission (2009) §§84, 141-145; *Prosecutor v Bemba* (ICC-01/05-01/08-475), ICC Pre-Trial Chamber II, Decision on the Interim Release of Jean-Pierre Bemba Gombo (14 August 2009) §38.
[48] *Gusinskiy v Russia* (70276/01), European Court of Human Rights (2004) §§71-78.
[49] European Court of Human Rights: *Wemhoff v Germany* (2122/64), (1968) §A.10, *McKay v United Kingdom* (543/03), Grand Chamber (2006) §§42, 43.
[50] Human Rights Committee, General Comment No. 35 on Article 9 (Liberty and security of person), para 38.
[51] *HKSAR v Lai Chee Ying* [2021] HKCFA 3, paras 53(b) and 67.

Law", as a basis for supporting the view that the NSL's bail rule should override the original principles set out in the CPO.[52]

Although it is in principle possible for courts to grant bail in national security cases, the CFA in the above-mentioned decision conceded that defendants have to face a considerably more stringent threshold requirement under the NSL.[53] More worryingly, another ruling by the CFA goes further, allowing that apart from offences under the NSL, any other offence deemed to be "safeguarding [sic] national security" would also be subject to the presumption *against* bail.[54] As such, people charged under the SNSO or the old sedition offence have also been deprived of the usual practice of bail pending trial, and – similar to those charged under the NSL – face a much more stringent bail threshold.

## 4.2 COURTS DENIED BAIL IN 89% OF CASES

Amnesty International's analysis reveals that the presumption against bail under the NSL has become an entrenched norm in practice.

According to the organization's database, among the 145 cases in which individuals were charged, the courts denied bail in 129 cases (89.0%), and granted bail in only 16 cases (11.0%).[55] Although the SNSO has been in place for little more than a year, the data shows a similar, and indeed more alarming, trend. Apart from one person whose bail information is not available, all other seven individuals charged under this law were denied bail.[56]

This study only accounts for the initial bail decision made after the individual was brought before a judge. It does not include subsequent changes in bail status (such as bail later granted upon appeal or bail later revoked) to maintain clarity and consistency in the data.[57]

The charts below present a breakdown of bail grant rates by type of offence:

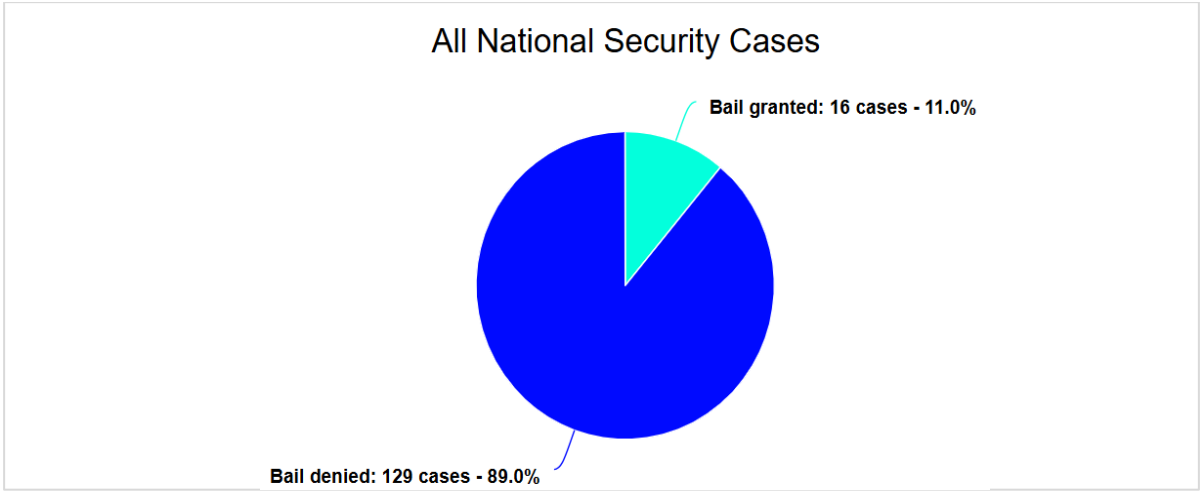


*Chart 1: Bail grant rate for all national security cases*

[52] *HKSAR v Lai Chee Ying* [2021] HKCFA 3, para. 67.
[53] *HKSAR v Lai Chee Ying* [2021] HKCFA 3, para. 53(b).
[54] *HKSAR v Ng Hau Yi Sidney* [2021] HKCFA 42, para. 29.
[55] There are two cases in which the defendants were charged with old sedition offence and granted bail *before* the enactment of the NSL. Since the NSL's bail rule was not applicable to them, their cases are not covered in the analysis.
[56] In total, eight people were charged under the SNSO, but bail information for one case remains unavailable.
[57] There are subsequent changes in bail decisions in 21 of our covered cases.

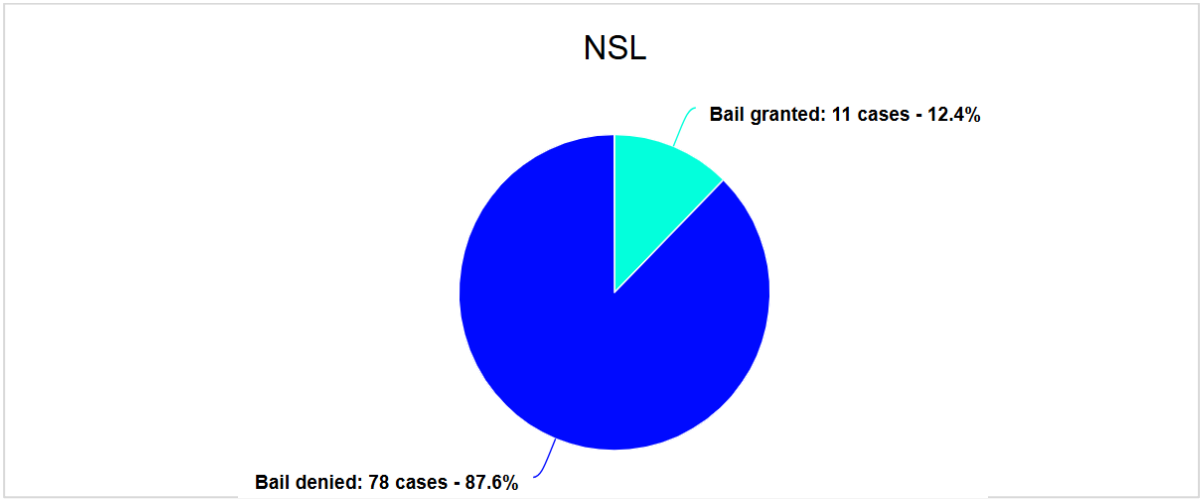


*Chart 2: Bail grant rate for NSL cases.*

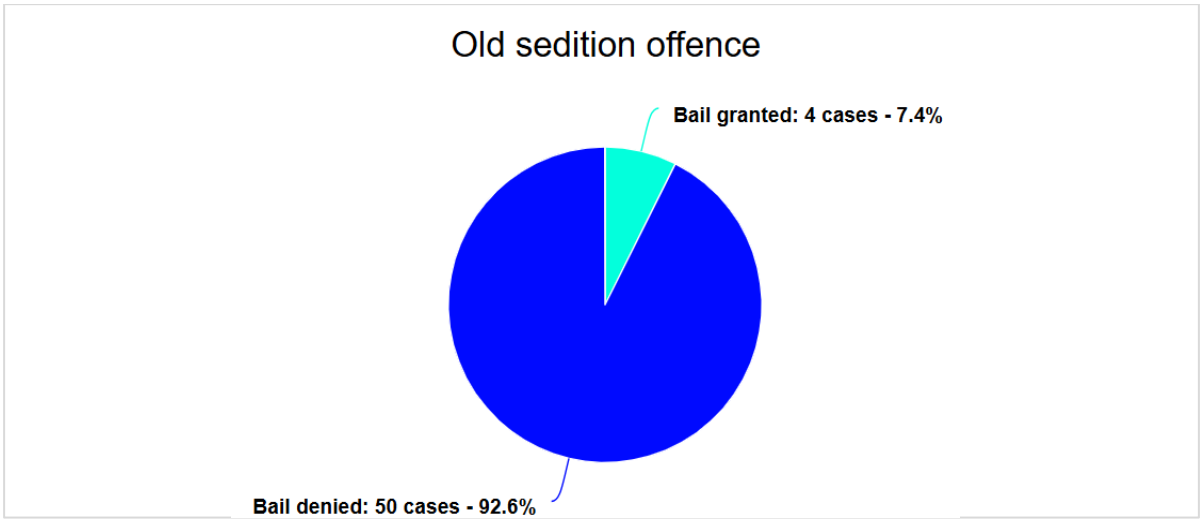


*Chart 3: Bail grant rate for cases under the old sedition offence.*

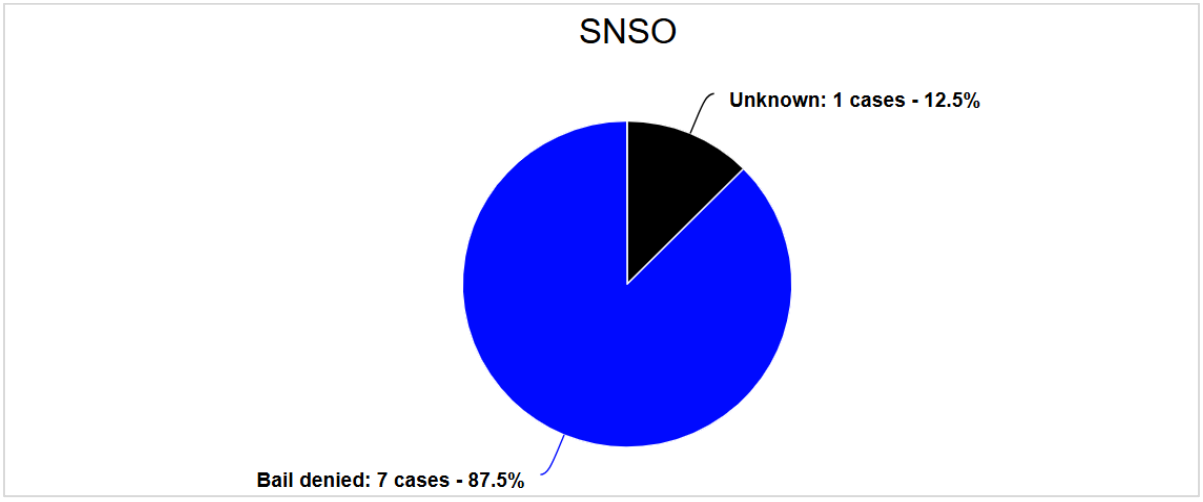


*Chart 4: Bail grant rate for SNSO cases.*

In light of these findings, Amnesty International is of the view that the NSL's bail rule runs counter to the longstanding presumption of innocence and violates the right to liberty.

## 4.3 AVERAGE DETENTION LENGTH IS 11 MONTHS

Apart from the bail grant rate, the length of pre-trial and pre-conviction detention is also a key indicator of risk of human rights violations.

Under international standards, people held in pre-trial detention have the right to have proceedings conducted with particular speed and promptness. If a person in detention is not brought to trial within a reasonable time, they have the right to be released from detention.[58] The government has a duty to act with special diligence in order to ensure that people held in pre-trial detention are tried within a reasonable time.[59]

This paper examined the length of pre-trial or pre-conviction detention for each case in which bail was denied by courts, using the criteria below.

- For defendants who **pleaded not guilty**, the detention period was measured from the date bail was denied to the **start of the trial.**
- For defendants who **pleaded guilty**, the detention period was measured from the date bail was denied to the **date of plea and conviction**, since these cases did not proceed to trial.[60]
- For defendants who were **initially denied bail but later granted it** upon review or appeal, as well as those who were initially granted bail but later had it revoked, only the days during which they were detained were counted.

As of 31 May 2025, among the 129 cases where bail was denied, the average length of detention was 328 days—approximately 10.8 months. Fifty-two cases (40.3%) involved detentions lasting one year or more before trial or guilty plea.

The cases involving the longest detention periods concerned two individuals who were targeted for exercising their freedom of expression in commemorating the 1989 Tiananmen crackdown. Chow Hang-tung, a prominent activist, and Lee Cheuk-yan, a former legislator, were denied bail and have each been held in pre-trial custody for 1,359 days—roughly 3.7 years—and are still awaiting trial as of 31 May 2025.[61] Both pleaded not guilty to "inciting subversion" under the NSL.

These findings reflect not only an excessive use of pre-trial and pre-conviction detention but also the punitive nature of national security prosecutions, where prolonged incarceration appears to be used as a tool of repression—irrespective of eventual guilt or conviction.

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[58] Article 9(3) of the ICCPR, see also, Article 16(6) of the Migrant Workers Convention, Article 7(5) of the American Convention on Human Rights, Article 14(5) of the Arab Charter on Human Rights, Article 5(3) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, Principle 38 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Section M(3)(a) of the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, Article XXV of the American Declaration of the Rights and Duties of Man; See Article 60(4) of the Rome Statute of the International Criminal Court. Also see *Barreto Leiva v Venezuela*, Inter-American Court (2009) §§120-122; *Wemhoff v Germany* (2122/64) European Court (1968) The Law §§4-5.

[59] Human Rights Committee, General Comment No. 35 on Article 9 (Liberty and security of person), para. 37. See also, European Court: *Stögmüller v Austria* (1602/62), (1969) §5, *O'Dowd v United Kingdom* (7390/07), (2010) §§68-70.

[60] Under the legal system in Hong Kong, a person will generally be convicted immediately once he/she pleads guilty.

[61] After being denied bail in September 2021, Chow Hang-tung were later convicted in two other public order cases and sentenced to 22 months' imprisonment. She served this sentence during the pre-trial detention for the NSL offence and completed it in March 2024.

## Who is Chow Hang-tung?


Chow Hang-tung was designated as a prisoner of conscience by Amnesty International in October 2024.

Chow was charged in 2020 for participating in a vigil commemorating protesters killed in the 1989 Tiananmen crackdown, and charged again in 2021 after she asked people on social media to light candles in memory of the victims. She was jailed for 22 months for daring to commemorate their lives.

She also faces a potential 10-year prison sentence for "inciting subversion" under the NSL over her role as former leader of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China, which organized the city's annual Tiananmen candlelight vigil for 30 years.

In May 2023, the UN Working Group on Arbitrary Detention issued an opinion concluding that the deprivation of liberty of Chow is arbitrary detention.[62] The Working Group also found that the arrest and detention against Chow resulted from her exercise of the right to freedoms of opinion and expression and assembly.[63] It requested the Hong Kong government to release her immediately, and revise the provisions of the NSL to ensure fair trial and avoid arbitrary detention.

Despite her imprisonment, Chow has continued to use her legal knowledge to defend rights, including in 2022 to secure the lifting of reporting restrictions on bail hearings. Most recently, Chow mounted a legal challenge to rules that require women – but not men – to wear long trousers year-round in Hong Kong prisons, where temperatures regularly exceed 30 degrees Celsius in summer.

"The state can lock up people but not their thinking, just as it can lock up facts but not alter truth."
– Chow Hang-tung

In its written response to Amnesty International, the Hong Kong government cited the CFA's decision, which was discussed above, and said that "the cardinal importance of safeguarding national security … explains why more stringent conditions to the grant of bail … have been introduced under the

[62] Working Group on Arbitrary Detention, Opinion No. 30/2023 concerning Ms. Hang Tung Chow (Hong Kong, China), 1 May 2023, UN Doc. A/HRC/WGAD/2023/30, para. 95.
[63] Ibid, para. 81.

HKNSL."[64] It also stated that it is common across jurisdictions that courts do not easily grant bail for defendants charged with "the most serious offences in the light of their circumstances, be they murder, drug trafficking, or offences endangering national security."[65]

[64] Secretary for Security, email to Amnesty International, 19 June 2025, https://www.amnesty.org/en/documents/asa17/9555/2025/en/, para. 13.
[65] Ibid, para. 16.

# 5. CONCLUSION

The evidence presented in this paper demonstrates that Hong Kong's national security framework—comprising the NSL, the old sedition offence and the SNSO—is being systematically misused to suppress dissent, rather than to address genuine threats to national security. Instead of applying restrictions that are narrow, necessary and proportionate, as required under international law, the authorities are deploying vague and overly broad legal provisions to target opposition voices and dismantle civil society.

This widespread misuse has profound consequences. It fosters a climate of fear and self-censorship, discouraging people from speaking out or participating in public life. Peaceful protest and political expression—cornerstones of a free society—are now treated as threats. When individuals are prosecuted simply for their words and denied presumption in favour of bail, the rights to freedom of expression and liberty are gravely undermined. Restoring these human rights requires not only legal reform but also a genuine commitment from the authorities to uphold the international human rights obligations that remain binding on Hong Kong.

# 6. RECOMMENDATIONS

Amnesty International called for the repeal of the NSL and the SNSO in previous outputs.[66] While a full repeal remains the ultimate goal, the focus of this paper is to seek changes in the short term. Accordingly, **Amnesty International urges that the Hong Kong authorities should, as a priority:**

1. Stop applying the NSL and the SNSO, particularly in cases targeting legitimate expression that must not be criminalised under international human rights law and standards.
2. Review pending cases related to the NSL, SNSO and old sedition offence to ensure no one is prosecuted for the legitimate exercise of their human rights.

**All other UN Member States should:**

1. Use all bilateral, multilateral and regional platforms at their disposal to urge the mainland Chinese and Hong Kong authorities to protect human rights in Hong Kong in accordance with their obligations under international human rights law.
2. Engage actively in international human rights mechanisms to hold the mainland Chinese and Hong Kong authorities accountable, such as by supporting the establishment of an independent, international investigation into human rights violations by the relevant authorities, including in Hong Kong.
3. Ensure that any trade- or investment-related agreements with the governments of China or Hong Kong are informed by a human rights impact assessment and, in response to any identified human rights risks, contain explicit and effective human rights safeguards in line with international law and standards.

[66] See, for example, Amnesty International, *Hong Kong: Human Rights Update as of July 2024* (Index: ASA 17/8362/2024), 25 July 2024, https://www.amnesty.org/en/documents/asa17/8362/2024/en/, p.1.

**Amnesty International is a movement of 10 million people which mobilizes the humanity in everyone and campaigns for change so we can all enjoy our human rights. Our vision is of a world where those in power keep their promises, respect international law and are held to account. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and individual donations. We believe that acting in solidarity and compassion with people everywhere can change our societies for the better.**

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