

Hong Kong: Nine-year sentence under National Security Law 'a hammer blow to freedom of speech'



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Tong Ying-kit first person sentenced under new law

Jailed for carrying a flag that read 'Liberate Hong Kong, revolution of our times'

Responding to the sentencing of Tong Ying-kit by a Hong Kong court to nine years in jail for “inciting secession” and “acts of terrorism” following the first trial under the city’s National Security Law (NSL), Yamini Mishra, Amnesty International’s Asia-Pacific Regional Director, said:

“The sentencing of Tong Ying-kit to nine years confirms fears that the National Security Law is not merely a tool to instil terror into government critics in Hong Kong, it is a weapon that will be used to incarcerate them. “Tong should never have been charged with an offence carrying a potential life sentence. Underpinning today’s ruling is the disturbing decision to bring ‘national security’ charges against him for brandishing a flag featuring a common protest slogan – a move that represents a hammer blow to freedom of speech. “The ruling essentially outlaws a popular slogan widely used by the pro-democracy movement, and could enable future convictions of numerous other protestors who used it. This point alone is a deeply ominous sign of what the national security law will bring in the future. “Convicting and punishing Tong for ‘inciting secession’ and ‘acts of terrorism’ based on the fact that he was displaying a political slogan is a violation of international human rights law. “Hong Kong authorities must ensure that any legal provisions aimed at protecting national security, or created in the name of counterterrorism,

are clearly and narrowly defined and that their use conforms to international human rights law and standards.”

On 1 July 2020, the first day of the NSL being in force, Tong Ying-kit drove a motorcycle towards a small group of police officers while displaying a flag bearing the common protest slogan: “Liberate Hong Kong, revolution of our times”.

Prosecutors said the slogan signified a desire to overthrow the government and deemed it to “connotate separation from China.”

The judges agreed, saying the slogan “was capable of carrying the meaning of separating [Hong Kong] from the PRC and was capable of inciting others to commit secession”.

Tong Ying-kit was denied the right to trial by jury – used in Hong Kong’s common law system for 176 years – after the justice secretary said there was a potential risk to the jurors.

Under international human rights law, displaying political slogans is in principle protected as legitimate expression.

The Hong Kong authorities’ sweeping definition of “national security”, which follows that of mainland China, has been used arbitrarily as a pretext to restrict the human rights to freedom of expression, peaceful assembly, association, fair trial and liberty, as well as to repress dissent and political opposition.

Between 1 July 2020 and 29 July 2021, police arrested or ordered the arrest of at least 138 people in relation to the NSL. As of yesterday (29 July), 68 people have been formally charged, of whom 51 are presently in pretrial detention.

An Amnesty briefing released last month found that the NSL has decimated Hong Kong’s freedoms, and created a landscape increasingly devoid of human rights protections.

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