

Hong Kong court sentences 45 opposition activists for subversion

Wednesday 27 November 2024, by [JURIST](#) (Date first published: 19 November 2024).

The Hong Kong Court of First Instance on Tuesday sentenced 45 defendants for conspiracy to commit subversion, with prison terms ranging from 50 to 120 months, depending on their alleged roles in an unauthorized primary election staged by pro-democracy groups in 2020.

The case stems from pro-democracy activists' [efforts](#) beginning in January 2020 to gain a majority in Hong Kong's Legislative Council. Their goal was to pressure the government to meet [five demands](#): withdrawing a pending bill to ease extradition to mainland China, stopping the labeling of protests as "riots," dropping charges against activists, investigating police brutality, and implementing universal suffrage for Legislative Council and chief executive elections. In June 2020, Beijing imposed a [National Security Law](#) (NSL), broadly viewed as a means of stifling the ongoing [protests](#). Hong Kong has in recent decades operated under a unique framework that grants it certain autonomy from mainland China's political system, an arrangement stemming from its 156-year history as a British colony before its 1997 handover to Chinese sovereignty.

Despite the NSL's enactment, pro-democracy activists in Hong Kong proceeded with a primary election in July 2020, aiming to secure a majority of seats in Hong Kong's Legislative Council. The unofficial election drew over 600,000 voters — about 13% of registered voters in the Special Administrative Region. Ultimately, the legislative council election was postponed, with local officials citing public health concerns related to the COVID-19 pandemic. Shortly thereafter, dozens of the primary's organizers were arrested. The subsequent prosecution of these activists marks one of the largest crackdowns on Hong Kong's opposition under the NSL.

In May, the court convicted 14 of 16 democracy activists of conspiring to commit subversion under Article 22(3) of the NSL. The court [concluded](#) that the defendants, together with 29 other activists who pleaded guilty, agreed to a scheme to gain a controlling majority in the 2020 Legislative Council election and force then-chief executive Carrie Lam to resign under Article 52 of the Basic Law. The scheme came following the series of [protests](#) against the now-withdrawn extradition bill.

In imposing sentences Tuesday, the court first noted that it did not accept the improbability of the activists' goals as a mitigating factor, holding that all defendants "had put in every endeavor to make it a success." The court also took into account conduct that took place before the enactment of the 2020 NSL to assess the seriousness of the plan and the role of each defendant. However, the court emphasized that it did not sentence the defendants for their pre-NSL conduct.

In addition, the court highlighted the seriousness of the crime, stating that if the scheme had been carried out, it would have caused "far-reaching consequences no less serious than overthrowing the Government of the HKSAR."

However, the court did accept that "ignorance of the law" was a mitigating factor for some

defendants, as they were repeatedly reassured by “Benny” Tai Yiu-ting, a sympathetic lawyer, that the primary election was lawful.

Having set out the sentencing principles, the court categorized the defendants into “principal offenders” and “active participants.” The court found Tai Yiu-ting, a former associate law professor at Hong Kong University, to be the initiator and organizer of the primary election and therefore one of the “principal offenders.” The court imposed 10 years of imprisonment, with a starting point of 15 years and a one-third discount for the timely plea. The court gave the other three “principal offenders” – Au Nok-hin, Chiu Ka-yin Andrew and Chung Kam-lun – further reductions for giving evidence at the trial, their “ignorance of the law,” and previous community contribution. Accordingly, they received 81, 84 and 73 months of imprisonment, respectively.

Regarding “active participants,” the court further distinguished between primary election candidates and those who took a more proactive role in persuading others. For instance, the initiators of the “Inked Without Regret” declaration – Leung Fong-wai Fergus, Cheung Ho-sum, and Chow Ka-shing – and the former Civic Party leader Yeung Alvin Ngok-kiu were all set to be sentenced at a starting point of 96 months, with the final sentence ranging between 59 and 93 months, varied by different mitigating factors. The starting point of other primary election candidates was set at between 50 and 84 months.

Responding to the court’s ruling, Secretary for Security Chris Tang Ping-keung [said](#) the sentence signaled to the public that serious crimes undermining national security will not be tolerated. Tang also affirmed that the Department of Justice is still considering whether to appeal the acquittal of defendants Lau Wai-chung and Lee Yue-shun.

JURIST Staff

[Click here](#) to subscribe to ESSF newsletters in English and or French.

P.S.

JURIST

<https://www.jurist.org/news/2024/11/hong-kong-court-sentences-45-opposition-activists-for-subversion/>