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### **City Bar Condemns Recent Arrests of Pro-Democracy Advocates in Hong Kong**

The New York City Bar Association condemns the arrest of fifteen prominent pro-democracy advocates in Hong Kong on April 18, 2020. These arrests include leading lawmakers, lawyers, and party leaders who have been recognized worldwide as proponents for the rule of law and human rights under domestic and international law. Those arrested include leading barristers Martin Lee QC and Margaret Ng QC as well as the well-known solicitor Albert Ho, all of whom have previously served as members of Hong Kong's Legislative Council.<sup>1</sup> In recognition for their lifelong defense of fundamental freedoms, Mr. Lee and Dr. Ng were jointly awarded the International Bar Association's Human Rights Award. The City Bar has previously consulted with these and other similarly respected members of Hong Kong's legal community in a series of previous fact-finding visits, programs, and reports concerning legal developments after the city's handover to the Peoples Republic of China ("PRC") in 1997.<sup>2</sup>

The City Bar is alarmed that these arrests violate domestic and international law, appear politically motivated, and reflect a general erosion of Hong Kong's autonomy despite China's commitment to maintain the city's separate common law legal system and basic freedoms.

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<sup>1</sup> The full list of those arrested on April 18 is: Leung Yiu-chung, Avery Ng, Lee Cheuk-yan, Albert Ho, Martin Lee, Figo Chan, Jimmy Lai, Sin Chung-kai, Cyd Ho, Au Nok-hin, Margaret Ng, Yeung Sum, Raphael Wong, Leung Kwok-hung, Richard Tsoi. See Rachel Wong, 15 Hong Kong pro-democracy figures arrested in latest police round up, Hong Kong Free Press, April 18, 2020, <https://hongkongfp.com/2020/04/18/8-hong-kong-pro-democracy-figures-arrested-in-latest-police-round-up-party-says/>. (All websites cited in this statement last visited on April 23, 2020.)

<sup>2</sup> See, e.g., *Legal Analysis of Certain Provisions of the National Security (Legislative Provision) Bill Pending Before the Legislative Council of the Hong Kong Special Administrative Region* (April 2003), <https://www.nycbar.org/pdf/report/30637027.pdf>; "One Person, One Vote": *The U.S. Electoral System and the Functional Constituencies Embodied in the Basic Law for the Election of the Chief Executive and of the Legislative Council* (Sept. 2004), <https://www.nycbar.org/pdf/report/HKreport8-271.pdf>; *Letter to Chief Executive of Hong Kong Regarding Treatment of Pro-Democracy Protesters in Hong Kong* (Oct. 2014), <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/letter-to-chief-executive-of-hong-kong-regarding-treatment-of-pro-democracy-protesters-in-hong-kong>; *Letter to Hong Kong Chief Executive on Proposed Amendments to Extradition Laws* (April 2019), <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/letter-to-hong-kong-chief-executive-on-proposed-amendments-to-extradition-laws>; *Statement on Police Use of Force in Hong Kong & Call for an Inquiry Commission* (Nov. 2019), <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/hong-kong-police-use-of-force-and-inquiry-commission-request>; *Breakfast Talk with Dennis Kwok, Member of Hong Kong Legislative Council* (Dec. 2018), <https://services.nycbar.org/EventDetail?EventKey=AAF121418&WebsiteKey=f71e12f3-524e-4f8c-a5f7-0d16ce7b3314>; *One Country, Two Legal Systems?: A Report on the Rule of Law in Hong Kong Two Years After the Resumption of Chinese Sovereignty*, 55 Record of the Association of the Bar of the City of New York 325 (2000).

Hong Kong is guaranteed the rights of peaceful assembly and free speech under international and municipal law. The Sino-British Joint Declaration, a binding international agreement between China and the United Kingdom, guarantees that Hong Kong shall enjoy separate legal and economic systems through 2047 under the policy of “One Country, Two Systems.” Among the fundamental rights to be preserved are: freedom of speech, of the press, and of publication; freedom of association, of assembly, of procession, and of demonstration. Moreover, Hong Kong’s Basic Law, which implements the agreement, incorporates the International Covenant on Civil and Political Rights into local law, including the ICCPR’s guarantee that “[t]he right of peaceful assembly shall be recognised.” Any arrest and prosecution must comport with these fundamental guarantees.<sup>3</sup>

The arrests were ostensibly based on suspicion of organizing and taking part in peaceful yet “unauthorized assemblies” on August 18, October 1, and October 20, 2019 under the Hong Kong Special Administrative Region Public Order Ordinance. The authorities have offered no explanation for the over five-month delay in making the arrests. Conversely, the apparent crackdown comes in the immediate wake of several developments suggesting a tightening of control by central authorities in Beijing, including: the PRC’s Liaison Office in Hong Kong commenting on recent Hong Kong Court of Appeal decisions in apparent contravention of Article 22 of Hong Kong’s Basic Law; and the Hong Kong government issuing statements that the Liaison Office is not bound by Article 22’s provision that, “No department of the Central People’s Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers on its own in accordance with this Law.”<sup>4</sup>

More generally, these recent arrests represent a dramatic escalation in an already troubling erosion of the rule of law despite the “One Country, Two Systems” pledge as well as the erosion of core international human rights protections in the city. Among other disturbing developments, the PRC government’s failure to widen the franchise in the selection of Hong Kong’s Chief Executive led to mass protests known as the “Umbrella Movement” in 2014. More recently, the Hong Kong government’s own attempt to enact a law that would allow for extraditions from Hong Kong to China led to another round of mass protests throughout 2019, which, despite the regrettable actions of a violent minority, were overwhelmingly peaceful. These protests were nonetheless met by police use of tear gas and water cannons, firing of rubber pellets, pepper spray and baton charges by the police, and credibly reported violence upon arrest. The United Nations High Commissioner for Human Rights, among others, has called for an investigation into these apparent uses of excessive force, but no investigation has been forthcoming.

The City Bar calls upon the Hong Kong government to drop all charges against and release all those arrested in this crackdown on democracy in Hong Kong for their involvement in peaceful assemblies. We further urge authorities both in Hong Kong and Beijing to honor their obligations under international and domestic law and renew their commitments to the rule of law and human rights under their pledge to maintain “One Country, Two Systems.”

#### **About the Association**

*The mission of the New York City Bar Association, which was founded in 1870 and has 24,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.*  
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<sup>3</sup> Hong Kong Basic Law, Chapter 3, Fundamental Rights and Duties of the Residents, *available at* [https://www.basiclaw.gov.hk/en/basiclawtext/chapter\\_3.html](https://www.basiclaw.gov.hk/en/basiclawtext/chapter_3.html).

<sup>4</sup> Hong Kong Basic Law, Chapter 2, Relationship between the Central Authorities and the Hong Kong Special Administrative Region, Art. 22, *available at*, [https://www.basiclaw.gov.hk/en/basiclawtext/chapter\\_2.html](https://www.basiclaw.gov.hk/en/basiclawtext/chapter_2.html).