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HONG KONG

FOUR UMBRELLA MOVEMENT LEADERS IMPRISONED

On 24 April 2019, four of the nine leaders of the 2014 Hong Kong pro-democracy Umbrella Movement protests have been sentenced to 8 and 16 months' imprisonment, on conviction of "public nuisance" related charges for "obstructing public places and roads" during the protests.

Professor Benny Tai Yiu-ting, Professor Chan Kin-man, Raphael Wong Ho-ming and Shiu Ka-chun are prisoners of conscience imprisoned solely for peacefully advocating for democracy in Hong Kong. Their imprisonment sets a precedent that government could use vague and ambiguous charges for blanket prosecution and imprisonment of peaceful protesters, exacerbating the chilling effect on freedom of peaceful assembly and expression in Hong Kong.

The nine were convicted of vague and ambiguous charges, including "conspiracy to commit public nuisance", "incitement to commit public nuisance" and "incitement to incite public nuisance", solely for their peaceful exercise of the rights to freedom of expression and peaceful assembly. It is the first time the government has used these charges against peaceful protestors. Prosecutors based the charges on common-law offences, which allows for harsher sentences compared to similar charges under statutory law. The conviction and sentencing for "incitement" and "incitement to incite public nuisance" have long-term negative impacts on the enjoyment of the human rights to freedom of expression and peaceful assembly in Hong Kong. In this case, evidence of "incitement" presented in court included newspaper articles directed to the public at large, press conference statements and media interviews that happened months before the protests, and videos taken by the police of protest leaders using loudspeakers to urge participants to invite others to join the protests.

The conviction and the imprisonment of the four sets a worrying precedent that these vague and ambiguous charges could be used for blanket prosecution and imprisonment of peaceful protesters, exacerbating the chilling effect on freedom of peaceful assembly and expression in Hong Kong. The nine indicated that they will appeal against the conviction.

Please send a fax, email or letter to the Chief Executive.

* Express concern that, instead of dropping the charges against Professor Benny Tai Yiu-ting, Professor Chan Kin-man, Raphael Wong Ho-ming and Shiu Ka-chun, a judge has announced prison sentences of 8 and 16 months.

* State that the four are now prisoners of conscience imprisoned solely for peacefully advocating for democracy in Hong Kong by using their rights to freedom of peaceful assembly and of expression.

* Call on her to secure the immediate and unconditional release of the four and to overturn their convictions without delay.

Write to

The Hon. Carrie Lam
Chief Executive, Government of the Hong Kong SAR
Office of the Chief Executive
Tamar, Hong Kong
Fax: 011 852 2509 0580
Email: ceo@ceo.gov.hk
Salutation: Dear Chief Executive

Additional information

Benny Tai Yiu-ting, Chan Kin-man and Chu Yiu-ming co-founded the "Occupy Central" campaign in 2013. The campaign advocated for the democratic election of the city's head of government (the "Chief Executive") and was intended to be a civil disobedience action to block roads in the Central District of Hong Kong. It became part of the large-scale pro-democracy Umbrella Movement protests, which were carried out in an overwhelmingly peaceful manner over 79 days between September and December 2014.

Among the eight protesters sentenced on 24 April were the co-founders of the "Occupy Central" campaign – legal scholar, Prof. Benny Tai Yiu-ting and sociologist, Prof. Chan Kin-man. They each received 16 months' imprisonment. The other two are political party leader Raphael Wong Ho-ming and lawmaker Shiu Ka-chun, each sentenced to 8 months' imprisonment. Another co-founder of the "Occupy Central" campaign, retired pastor Rev. Chu Yiu-ming, student leader Eason Chung Yiu-wa and political party leader Lee Wing-tat were given suspended prison sentences. Student leader Tommy Cheung Sau-yin was sentenced to community service. Lawmaker Tanya Chan's sentencing was postponed to 10 June due to her health condition.

The Hong Kong government has arrested many peaceful protesters since the Umbrella Movement, usually on vague charges related to "unlawful assembly", "unauthorized assembly" and "public disorder". Those charges are based on the Public Order Ordinance, the provisions and application of which have been repeatedly criticized by the UN Human Rights Committee, the body monitoring implementation of the International Covenant on Civil and Political rights, which is binding on Hong Kong, for failing to fully meet international human rights law and standards on the right of peaceful assembly.

In July 2016, three student leaders were convicted after climbing into the "Civic Square" outside government buildings during a protest on 26 September 2014. Joshua Wong and Alex Chow were found guilty of "taking part in an unlawful assembly" and Nathan Law of "inciting others to take part in an unlawful assembly". The court originally ordered non-custodial sentences against them, but prosecutors appealed to seek harsher penalties. In August 2017, the three student leaders were handed jail terms of six to eight months and were imprisoned, before being released on bail in October and November 2017 pending an appeal. On February 2018, the Court of Final Appeal overturned the jail sentences.

By the end of the protests, the government had arrested 955 people who had taken part in the Umbrella Movement protests over the course of the 79 days and another 48 after the protests had ended. Many were soon released, but police notified them that criminal investigations were still ongoing and that they would be re-arrested and charged should there be enough evidence to prosecute them. A pattern of long intervals between initial arrests and the decision to prosecute has meant that only a small proportion of the protesters who were arrested have faced trial.

By continuing to prosecute prominent figures of the Umbrella Movement protests after long delays, hundreds of other protesters are left uncertain if the government is planning to pursue charges against them as well. This uncertainty, together with the use of vague and ambiguous charges and the prosecution's pursuit of harsh sentences, is having a chilling effect on the rights to freedom of peaceful assembly and expression in Hong Kong.