

Hong Kong Reaches a Grim Milestone: 1,000 Political Prisoners



a report by
Hong Kong Democracy Council



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Introduction.....	1
1. Background: From 26 to 1,014 political prisoners in less than three years... 2	2
A. Protesters.....	2
B. Opposition leaders.....	3
C. National security law defendants.....	6
D. Overview of political arrests, prosecutions and convictions.....	7
2. Findings from the Hong Kong Political Prisoners Database.....	9
A. Definition of “political prisoner”	9
B. Categories.....	10
C. Number.....	12
D. Key aspects and statistics.....	12
i. Length of sentences.....	12
ii. Types of crimes sentenced.....	13
a. Possession offenses.....	15
b. Nonviolent assembly offenses.....	17
c. Violent offenses; in particular, riot.....	18
d. Other types of offenses.....	20
iii. Juvenile detention.....	20
iv. Disproportionately large representation of young people.....	21
v. Average time between arrest and sentence.....	23
vi. Top arrest locations.....	23
vii. The rise of remand as a form of long-term detention.....	24
3. Hong Kong political prisoners in global context	27
Conclusion.....	30
Recommendations.....	31
Acknowledgments.....	33

Introduction

There have been 1,014 political prisoners in Hong Kong from June 9, 2019, to May 10, 2022.

This is the number of people who have been imprisoned since the beginning of the mass protests in 2019 and up to the present. At the start of the protests, there were only a handful of political prisoners. The exponential increase has occurred in a little under three years.

Of the 1,014 political prisoners, 582 are currently in custody, and 432 have completed their sentences and are presumed released. More than 1,000 political trials are still on-going; others are not even scheduled to commence until 2023, nearly four years after the incidents in question. Hong Kong Democracy Council projects that the number of political prisoners will eventually reach somewhere between 1,500 and 2,000, assuming there are no future large waves of political arrests.

Hong Kong now has one of fastest-growing populations of political prisoners in the world, rivaling Belarus, Burma, and Cuba, other societies where authoritarian governments have recently cracked down on protest movements.

The large number of political prisoners is a key indicator of the deterioration of the rule of law, an independent judiciary, and protections of civil and political liberties, marking Hong Kong's rapid descent into authoritarianism.

The phenomenon of the imprisonment of political enemies as a matter of policy is an integral part of an all-encompassing crackdown:

- The right to freedom of assembly has been indefinitely suspended, with all protests outright banned.
- The right to freedom of association has crumbled as authorities have forced the closure of over 70 different civil society groups since the start of 2021, including student groups, labor unions, grassroots neighborhood groups, political groups, religious groups, and human rights organizations.
- The right to freedom of expression has been tightly circumscribed with dozens arrested for chanting political slogans and for online posts, while independent media have either been shut down or “harmonized” and dissenting voices have been purged from the education system.
- The right to political participation, only ever very partially realized, has essentially been abolished, with virtually the whole political opposition imprisoned and new electoral “reforms” allowing only “patriots” (Chinese Communist Party-speak for those approved by the Party) to run for office.

Overall, this situation constitutes no less than a grave human rights crisis.

Among the political prisoners are leaders of NGOs, trade unions and political parties; journalists; activists; teachers; professors; students; opposition politicians; protest leaders; and lawyers — a virtual cross-section of Hong Kong civil society.

Young people, who were in the forefront of the 2019-20 mass protests, have been disproportionately targeted. More than three-quarters of Hong Kong's political prisoners are under the age of 30, more than half under 25, and more than 15 percent under 18. There is no better symbol of the Chinese Communist Party's attempts to smash Hong Kongers' aspirations for democracy, autonomy, and freedom than the incarceration of hundreds who represent its future.

This report is based on the Hong Kong Political Prisoners Database (HKPPD), a full database of political prisoners in Hong Kong compiled by Hong Kong Democracy Council in collaboration with Hong Kongers who prefer not to be named due to security considerations. It is the first published report to provide a comprehensive overview of political prisoners in Hong Kong.

1. Background: From 26 to 1,014 political prisoners in less than three years

How has Hong Kong gone from 26 to 1,014 political prisoners in less than three years?

The basic trajectory is straight-forward:

1. In August 2019, the regime began to aggressively arrest and prosecute protesters.¹
2. In early 2020, it began to systematically target political opposition leaders for arrest and prosecution in connection with its wider crackdown on Hong Kong society.
3. In June 2020, it imposed the “national security law” (NSL).²

These events created three distinct but strongly overlapping groups of political prisoners:

1. protesters;
2. political opposition leaders;
3. “national security law” defendants.

Below, these three phases and groups are sketched out to show how momentum built toward the imprisonment of the 1,014 political prisoners.

A. Protesters

Mass protests erupted on June 9, 2019, when more than one million people took to the streets to protest against an impending law that would allow Hong Kong authorities to extradite people from Hong Kong to China. The protesters saw it as a significant erosion of the so-called firewall between Hong Kong and China that had safeguarded Hong Kong's rule of law and political and civil liberties. The first arrests occurred that very evening.

¹ The term “regime” in this report denotes the Chinese Communist Party and the Hong Kong government. The Hong Kong government is essentially an extension of the CCP.

² Its official name is the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region.

The protests grew and spread throughout the city over the coming months. In all, from June 9, 2019, to July 7, 2020, an estimated 30 to 45 percent of the Hong Kong population of 7.4 million participated in at least 1,096 protests.³ This is an enormous participation rate, higher than any other on record anywhere else in the world.

In response, the police ramped up the arrests, eventually conducting mass and often indiscriminate arrests of hundreds of protesters at a time. By the end of January 2020, over 7,000 protesters had been arrested. On March 28, the government banned all protests in the name of public health. In spite of this, when word spread of the impending NSL, protests flared up again in May and June. By July, after the imposition of the NSL, the number of protest-related arrests hit 9,500. That figure rose to 10,200 by January 2021.⁴

By comparison, about 250 people were arrested in relation to the previous extended mass pro-democracy protests, the Umbrella Movement from September to December 2014. A few dozen were eventually prosecuted. In the post-Umbrella Movement period, Hong Kong authorities increasingly employed judicial means to persecute political opposition, with the courts used to unseat elected pro-democracy Legislative Council members and prosecute political opposition leaders. But these numbers were in the dozens and the targets were primarily high-profile opposition figures. When the 2019-2020 protests started in June 2019, there were 26 political prisoners in Hong Kong: four in relation to their roles in the Umbrella Movement in 2014⁵ and 22 in relation to the so-called Fishball Uprising clashes between police and protesters in Mong Kok in February 2016.⁶

Of more than 10,200 protesters who have been arrested since 2019, 2,974 have been prosecuted as of March 11, 2022. Those who were eventually convicted and imprisoned make up by far the largest group of political prisoners. Almost all of them are ordinary Hong Kongers who prior to the protests were not public figures.

B. Opposition leaders

After the mass arrests of protesters came the systematic targeting of political opposition leaders starting in early 2020 and continuing for well over a year.

Some had already been arrested in relation to the protests, in most cases for attempting to intervene with the police on behalf of the protesters. The protests were highly decentralized:

³ For a list of protests, see “Hong Kong pro-democracy protests 2019-2020”, Kong Tsung-gan, <https://kongtsunggan.medium.com/hong-kong-protests-2019-82cf32383605>.

⁴ For a table of cumulative arrests and prosecutions, see the table, “Arrests and trials of Hong Kong protesters, as of February 15, 2022” in “Arrests and trials of Hong Kong protesters and political leaders”, <https://kongtsunggan.medium.com/arrests-and-trials-of-hong-kong-protesters-and-opposition-leaders-2144f5d6895b>.

⁵ The four political prisoners from the Umbrella Movement were Chan Kin-man, Shiu Ka-chun, and Raphael Wong, part of a group of nine convicted of inciting the start of the Umbrella Movement protests, and Joshua Wong, convicted on another Umbrella Movement charge. Benny Tai, among that group of nine, was on bail pending appeal at the start of the 2019-2020 protests. In 2021, his appeal was rejected and he began serving his Umbrella Movement sentence. By that time, he was already remanded in custody on a charge of “conspiracy to commit subversion” under the “national security law” for organizing the July 2020 pro-democracy primary.

⁶ For an overview of those imprisoned in relation to the police-protester clashes of February 2016, the so-called Fishball Uprising, see “Overview of trials related to police-protester clashes in Mong Kok on 8-9 February 2016”, Kong Tsung-gan, <https://kongtsunggan.medium.com/overview-of-trials-related-to-police-protester-clashes-in-mong-kok-on-8-9-february-2016-39386a4be9e6>.

none of the leaders of opposition political parties or other high-profile activists played leading roles in the protests as a whole.⁷

The pattern and scale of the arrests and prosecutions coupled with the contemporaneous repressive actions listed below indicate that the Chinese Communist Party (CCP) made the decision to wipe out political opposition in Hong Kong once and for all.

Virtually all pro-democracy members of the standing Legislative Council were arrested, disqualified from office, or both. The regime postponed September 2020 Legislative Council elections until December 2021 on public health grounds; this, in spite of the fact that during the pandemic, many successful elections were held around the world without any evidence that they lead to the increased spread of the coronavirus. Virtually all pro-democracy candidates for the Legislative Council—48 in all—were arrested on the same day, January 6, 2021. Forty-one, along with six primary organizers, were later charged with “conspiracy to commit subversion” under the NSL, and most of them—34 as of the end of April 2022—have been placed in long-term pre-trial detention.

In the meantime, the regime undertook so-called “electoral reform,” the gist of which was to ensure that only “patriots” (those approved by the CCP) could run for office.

Only after these repressive actions were undertaken were Legislative Council elections held in December 2021. These were essentially fake. All opposition candidates were excluded. Most were remanded in custody or imprisoned. There was therefore no substantial competition. Indeed, for the foreseeable future, there will be no competitive elections of any kind.

Over the same period, virtually all of the political parties and other pro-democracy organizations led by opposition leaders have closed or become moribund.

It is worth noting that the last time competitive elections were held in Hong Kong was in November 2019, while protests were still on-going. These were for District Councils. Elections for District Councils, unlike those for the Legislative Council, were conducted according to the principle of universal suffrage, mainly because District Councils essentially had no effective powers. In a landslide victory, pro-democracy candidates won over 80 percent of District Council seats.

It was after this that the CCP decided competitive elections could never again be held in Hong Kong. It feared that pro-democracy candidates might gain a majority in the Legislative Council, despite the fact that even before the CCP’s “patriots only” electoral reform, Legco was rigged to virtually ensure a pro-CCP majority. The regime incessantly attacked pro-democracy District Councilors through arrests, prosecutions, and the imposition of new loyalty oaths. These attacks have left District Councils riddled with so many empty seats as to render them effectively unable to function.

Within this wider political context, the regime’s purpose in arresting and prosecuting virtually all major opposition leaders comes into clearer focus.

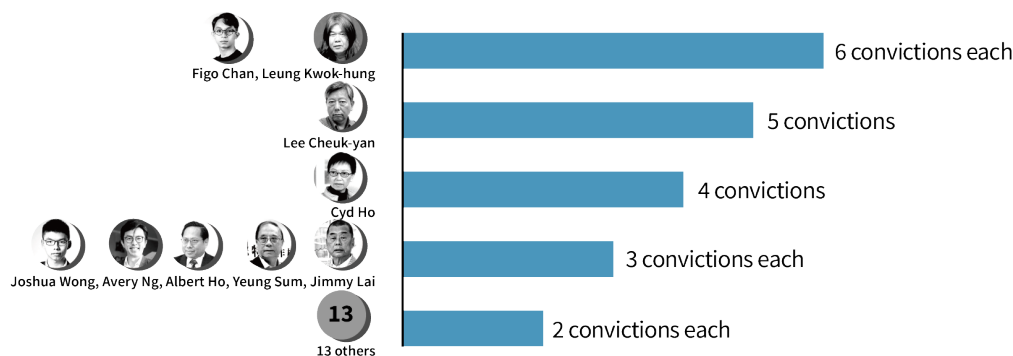
In all, from June 9, 2019 to March 11, 2022, at least 176 political opposition leaders have been arrested

⁷ The term “political opposition leader” refers to elected representatives to the Legislative Council and District Councils; leaders of pro-democracy political parties; protest organizers; leaders of prominent pro-democracy organizations; leaders of university student unions; leaders of pro-democracy labor unions; pro-democracy Legislative Council candidates of 2020; and other outspoken and prominent proponents of democracy such as the owner of the Apple Daily newspaper, Jimmy Lai.

at least 299 times. Of those, 108 have been prosecuted, and 67 have been convicted 101 times.⁸

Many have faced multiple trials and convictions:

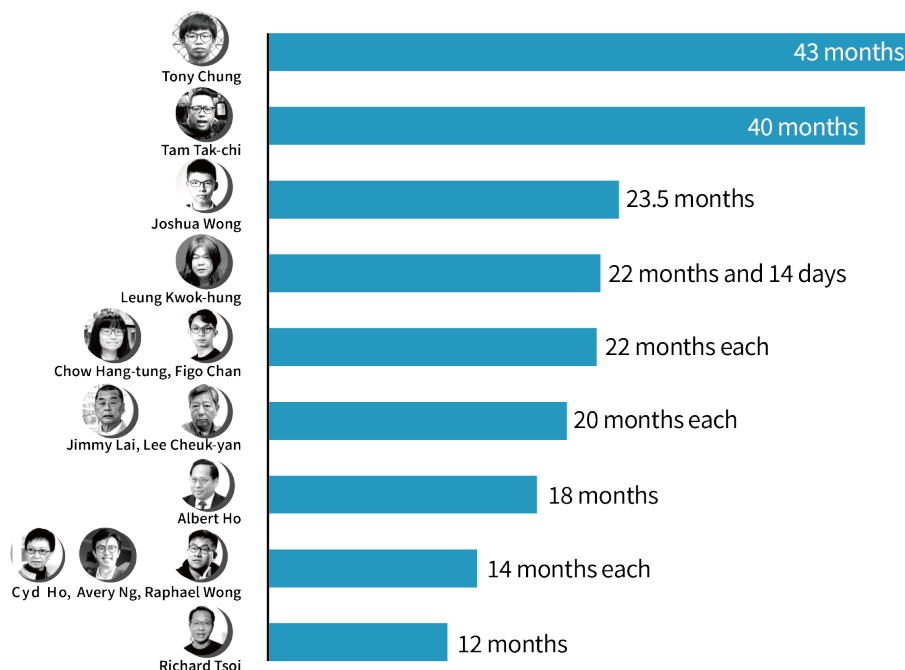
Figure 1: Opposition Figures Facing Multiple Charges



Thirty-two of the 67 convicted have been imprisoned on 55 sentences.

Thirteen are currently serving at least one year in prison:

Figure 2: Opposition Figures Serving At Least One Year in Prison



Almost all of these prison sentences are for organizing, inciting and/or participating in unlawful assembly in 2019. The exceptions: Tam Tak-chi was convicted of “sedition” and three other offenses, though in his case as well, all of those supposed offenses were committed at protests. Tony Chung was convicted of “secession” under the “national security law” and money laundering. He is the only opposition leader currently serving a prison sentence (as opposed to being remanded in custody) whose conviction is not directly related to the protests.

⁸ For a full list of political opposition leaders arrested, tried, convicted and imprisoned, see the table, “Arrests & trials of Hong Kong political & protest leaders, as of February 15, 2022” in “Arrests and trials of Hong Kong protesters and opposition leaders”, Kong Tsung-gan, <https://kongtsunggan.medium.com/hong-kong-anti-extradition-demonstrations-and-arrests-8079613e5688>.

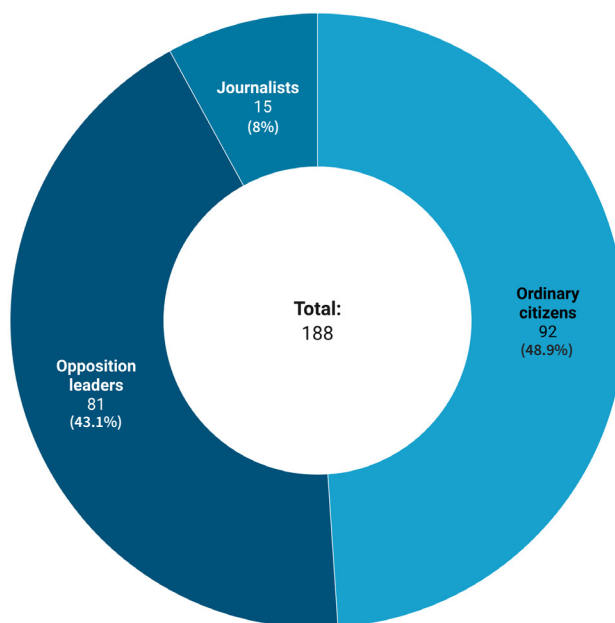
C. National security law defendants

After protesters and political opposition leaders, the third phase of arrests and prosecutions occurred after the imposition of the national security law on June 30, 2020.

As stated above, there is much overlap between the three categories of protesters, political opposition leaders, and NSL defendants, and especially between opposition leaders and NSL defendants.⁹

A large number of NSL arrestees are opposition leaders, although a significant number are also ordinary citizens with no previous public profile. In all, 81 of the 188 individuals arrested¹⁰ under the NSL are opposition leaders, while 92 are ordinary citizens with no previous public profile, and 15 are journalists.¹¹

Figure 3: Number of NSL-related Arrests
(as of March 11, 2022)



However, opposition leaders and journalists have been prosecuted at a far higher rate: of 81 opposition leaders arrested under the NSL, 66 have been prosecuted (about 81 percent); of 92 ordinary citizens arrested, 35 have been prosecuted (about 38 percent); of 15 journalists arrested, 12 have been prosecuted (80 percent).¹²

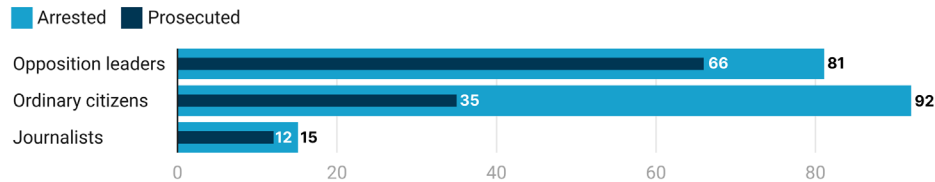
⁹ There have been few protests since the imposition of the NSL, and therefore relatively few protesters have been prosecuted under the NSL. In all, of the 176 opposition leaders arrested, 81 have been arrested under the NSL (about 46 percent); and of the 108 opposition leaders prosecuted, 66 have been prosecuted under the NSL (about 61 percent).

¹⁰ This number includes all those arrested on suspicion of having committed an NSL offense as well as all those arrested by the National Security Department of the Hong Kong Police Force or under the direction of the NSD under suspicion of having committed non-NSL offenses such as sedition.

¹¹ Of the 188 arrested under the NSL, 115 have been arrested on suspicion of having committed NSL offenses; 40 have been arrested for sedition, a non-NSL crime; and 41 for other non-NSL crimes. (Some have been arrested on suspicion of having committed multiple offenses.) The arrests of those suspected of having committed sedition and other non-NSL offenses have been carried out under the direction of the National Security Department as part of its investigations into “national security” offenses. Sedition has increasingly become the NSD’s new favorite crime. The most recent NSL arrest was made on September 21, 2022. Since then, 29 of the 40 sedition arrests have been made.

¹² For a full list of those arrested, prosecuted, convicted and sentenced under the “national security law” see the table, “Arrests, trials and convictions under the National Security Law imposed upon Hong Kong by the Chinese Communist Party on June 30, 2020, up to February 15, 2022” in “Arrests and trials of Hong Kong protesters and political opposition leaders”, Kong Tsung-gan, <https://kongtsunggan.medium.com/arrests-and-trials-of-hong-kong-protesters-and-opposition-leaders-2144f5d6895b>

**Figure 4: Number of NSL-related Arrests and Prosecutions
(as of March 11, 2022)**



The NSL has been a key tool in the CCP's all-encompassing crackdown. It provided a legal basis for the presence of Chinese security officials in Hong Kong;¹³ created a new National Security Department within the Hong Kong Police Force; granted power to the CCP-appointed Hong Kong Chief Executive to designate specific judges to preside over NSL trials; and created new classes of political crimes, the main ones being secession, subversion, terrorism and collusion with foreign forces. It has led to repression in virtually every sector of society and is responsible for a pervasive atmosphere of intimidation.

It is also mainly responsible for the large increase in the number of defendants in long-term detention pending completion of their trials. (See below for details.)

Overall, about 12 percent of Hong Kong's 1,014 political prisoners are NSL or sedition¹⁴ defendants or have been convicted and imprisoned for NSL or sedition offenses.

D. Overview of political arrests, prosecutions and convictions

Taking into account the above three phases, overall, as of March 11, 2022, at least 10,501 political arrests had occurred, and 2,974 defendants had been prosecuted.

Of the 2,974 prosecuted, the trials of 1,815 had concluded, and 1,159 were on-going.

Of the 1,815 whose trials had concluded, 1,198 had been convicted, 359 acquitted, and 238 bound over.¹⁵ (The results of the 20 others are unclear or unaccounted for.)

¹³ The Office for Safeguarding National Security of the Central People's Government in the Hong Kong Special Administrative Region is the name of the new entity made up of Chinese security officials. It is highly secretive; virtually no information has emerged about it.

¹⁴ "Sedition" is not a "national security law" crime. It is an offense in the Crimes Ordinance which dates back to the UK-colonial era. Indeed, prior to 2020, it had never been invoked since the handover of Hong Kong from the United Kingdom to China in 1997. Hong Kong courts have recently ruled that because the crime has significant "national security" implications, many of the provisions outlined in the "national security law" can also apply to it, in particular, placing the onus on defendants to prove they will not reoffend if released on bail pending completion of trial and the appointing of designated NSL judges to preside over sedition trials. In effect, then, "sedition" is treated in virtually the same way as an NSL crime. It is investigated by the National Security Department of the Hong Kong Police Force, and the number of those prosecuted for the offense who are remanded in custody pending completion of trial is similarly low: two of 32 have been released on bail pending completion of trial.

¹⁵ On April 6, 2022, the Hong Kong government's Department of Justice released new statistics on arrests and prosecutions of anti-extradition protesters. It said 10,277 protesters have been arrested, 1,858 trials have concluded, 1,158 have been convicted, and 297 have been bound over. These figures differ somewhat from those in the report. In regard to the number of arrested, 10,277, the government confines its count to those it classifies as anti-extradition protesters, whereas the count in this report, 10,501, refers to all protesters, as well as political opposition leaders and NSL arrestees. The government lists 35 more trials as having concluded. This is most likely to do with different cut-off dates for the statistics (no cut-off date was given in the most recent government release), but it may also be the case that this report's list of those prosecuted is incomplete. The numbers presented in the report are based on confirmed individual cases. The government, while occasionally publishing overall totals, has never published lists upon which its totals are based. For details on the April 6 government release, see "反修例共 1,158 人被定罪 刑罰最重者囚 12 年 另有 952 人仍進行司法程序" <https://www.inmediahk.net/node/%E7%A4%BE%E9%81%8B/%E5%8F%8D%E4%BF%AE%E4%BE%8B%E5%85%B11158%E4%BA%BA%E8%A2%AB%E5%AE%9A%E7%BD%AA-%E5%88%91%E7%BD%B0%E6%9C%80%E9%87%8D%E8%80%85%E5%9B%9A12%E5%B9%B4-%E5%8F%A6%E6%9C%89%95%E4%BA%BA%E4%BB%8D%E9%80%B2%E8%A1%8C%E5%8F%B8%E6%B3%95%E7%A8%8B%E5%BA%8F> On April 27, 2022, the Hong Kong government's Security Bureau released another batch of statistics on arrests and prosecutions of anti-extradition protesters. According to this most recent statement, 2,804 anti-extradition protesters have been prosecuted and 1,172 have been convicted as of February 28, 2022. See "LCQ14: Statistics on criminal cases", <https://www.info.gov.hk/gia/general/202204/27/P2022042700446.htm>

Table 1: The Fate of Hong Kong's Political Arrestees
(as of March 11, 2022)

Prosecution on-going	1,159
Convicted	1,198
Acquitted	359
Bound over	238
Arrested but not prosecuted	7,527
Total	10,501

Of the 1,198 convicted, 785 received custodial sentences and 377 non-custodial sentences; 36 were released on bail pending appeal. About 65 percent of those convicted received custodial sentences.

Of the 377 who received non-custodial sentences, 292 were sentenced to community service, 40 were placed on probation, 36 received suspended sentences, and 9 received child protection orders.

Of the 785 who received custodial sentences, 612 were sentenced to prison, 169 to juvenile detention, and 4 to drug rehabilitation centre.

Figure 5: Number of People Sentenced to Prisoner, Juvenile Detention, or Drug Rehabilitation Centre
(as of March 11, 2022)



The 785 make up about three-quarters of the overall number of political prisoners. The others are those remanded in custody pending completion of trial or sentencing (see below for details).

2. Findings from the Hong Kong Political Prisoners Database

The Hong Kong Political Prisoners Database (HKPPD) was compiled by Hong Kong Democracy Council from a variety of different sources. It is made up of lists of all those known to have been given custodial sentences since June 9, 2019 and all those currently remanded in custody. It encodes basic information for each individual listed such as age, offense, location of arrest, sentence, duration of sentence, dates of arrest and sentencing, and related details.

The findings presented in this section are based on the number of 964 political prisoners listed in the latest version of the dataset as of March 11, 2022. The situation is fluid and fast-developing—the number of political prisoners has since then increased to 1,014 by May 10, as noted above, but analyses in this section refer to figures as of the March 11, 2022 cut-off date in order to maintain internal consistency.*

A. Definition of “political prisoner”

There is no internationally agreed or legally binding definition of “political prisoner”. It can be a somewhat controversial term: one person’s political prisoner is another person’s common criminal. Indeed, the regime does not recognize any political prisoners in Hong Kong. It asserts that all those imprisoned have been convicted of recognizable and legitimate criminal offenses.

In spite of the lack of internationally agreed or legally binding definition, the term is seen by many who work in the area of human rights to have descriptive and analytical power. A number of human rights organizations, particularly those working at the national level, have done groundbreaking work on the concept and definition of “political prisoner”.¹⁶

The political situation in Hong Kong today cannot be adequately understood without recognizing the existence of a large number of political prisoners and the fact that this is a relatively new phenomenon.

This report defines “political prisoner” in the following way.

A political prisoner in Hong Kong is anyone remanded, imprisoned, placed in juvenile detention, or otherwise incarcerated....

- ...for speech or action related to their expression of political belief or opinion, including taking part in demonstrations, uttering political slogans, publishing articles and videos, and using social media

- ...for being a member of the organized political opposition, including pro-democracy political parties, protest groups and other non-governmental organizations espousing explicitly pro-democracy views

- ...on explicitly political charges such as those under the “national security law” (secession, subversion, collusion with foreign forces, and terrorism) as well as sedition

* In the following section, some figures on remand in custody pending completion of trial have been corrected from the original version of the report on May 25, 2022.

¹⁶ For a particularly well-developed, useful and comprehensive guide to defining political prisoners, please see Viasna Human Rights Center’s “GUIDELINES ON THE DEFINITION OF POLITICAL PRISONERS”, https://spring96.org/files/misc/politprisoner-guidelines-final_en.pdf

...for engaging in activities protected as basic human rights under international law and regarded as lawful in democratic, rights-respecting societies but perceived as a political threat by the regime, such as publishing a newspaper or running a non-governmental organization¹⁷

The above definition is consistent with those articulated by human rights organizations monitoring political prisoners in other authoritarian societies.¹⁸

While it may be difficult to conclusively identify a political motivation on the part of the regime in individual cases or prove that the defendant is being prosecuted primarily for her/his political speech and/or action, the patterns and contexts identified in this report provide substantial evidence that the arrests and prosecutions are politically motivated and intended to criminalize political speech and action repugnant to the regime.

When considering the category of “political prisoner,” there has been a tendency globally to distinguish between those imprisoned for nonviolent and violent speech and actions. For decades, Amnesty International employed the closely related concept, “prisoner of conscience.” It designated as such only prisoners who had no association with violent means. This definition precluded universally revered freedom fighter Nelson Mandela since he advocated armed rebellion against the apartheid regime of South Africa.

This report considers all who have been imprisoned for their political speech and actions to be political prisoners, regardless of whether they have been convicted of violent or nonviolent offenses. The term, “political prisoner,” is not employed as a stamp of approval or disapproval but rather as a simple statement of fact: these people are imprisoned for their political speech and/or actions as part of the Hong Kong-wide democracy movement from 2019 onwards which was met with systematic and draconian repression by the regime. Whether or not one believes civil disobedience is justified, whether or not one believes violence against illegitimate (because undemocratic and tyrannical) regimes is justified, whether or not one believes violence in self-defense against police is justified—these are all important issues but, for the purposes of this report, secondary to the factual designation.

B. Categories of political prisoners

This report divides political prisoners into three separate categories according to type of detention:

1. those who have been convicted of a crime and sentenced to prison or juvenile detention
2. those who have been convicted of a crime and remanded in custody pending sentencing
3. those who are remanded in custody pending completion of their trial

These three groups together make up the totality of political prisoners in Hong Kong.

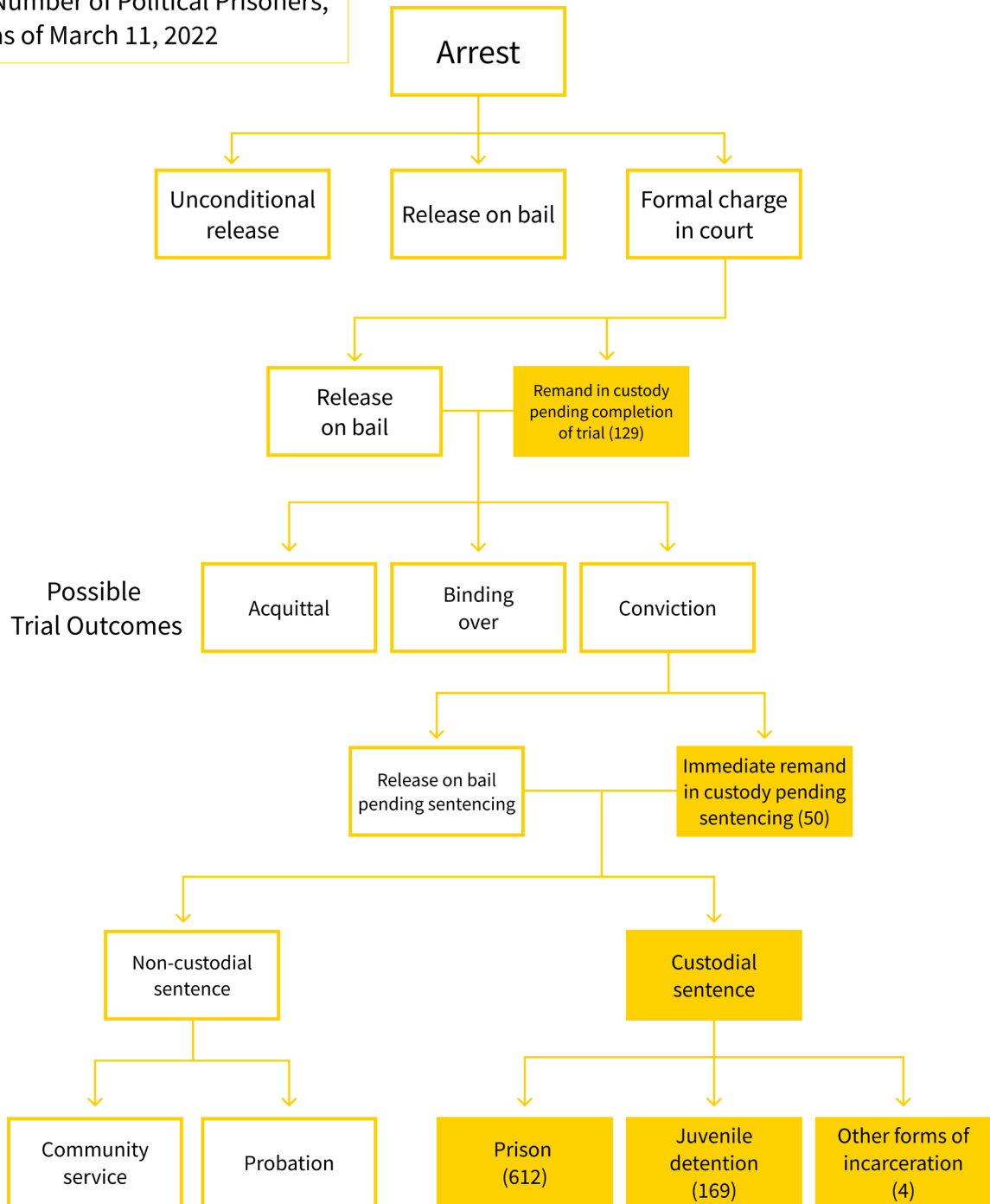
¹⁷ There are other elements of a definition of political prisoner which may be more relevant in other political contexts, such as imprisonment primarily on the basis of identity, whether ethnic, religious, political or other, but this is currently less relevant in Hong Kong as none are imprisoned primarily on the basis of identity except perhaps political identity and this area is more precisely articulated in the above definition.

¹⁸ Other organizations doing important work on political prisoners include Assistance Association for Political Prisoners of Burma, Prisoners Defenders of Cuba, Viasna Human Rights Center of Belarus and Memorial Human Rights Center and OVD-Info of Russia, as well as the Congressional-Executive Commission on China, Syria Network for Human Rights, Committee for Human Rights in North Korea, Arabic Network for Human Rights Information, Stiftung Wissenschaft und Politik, Addameer Prisoner Support and Human Rights Association of Palestine, Bahrain Institute for Human Rights and Democracy, Iran Prison Atlas, Foro Penal de Venezuela and Mecanismo de Reconocimiento de Presos Políticos of Nicaragua. See a comparative table of political prisoners around the world based on their counts near the end of the report.

Figure 6: Becoming Political Prisoners in Hong Kong

Legend

- Political Prisoner
() Number of Political Prisoners,
as of March 11, 2022



C. Number

According to the above categories, 785 people have been sentenced to prison, juvenile detention or drug rehabilitation centre, 50 have been convicted and remanded in custody pending sentencing, and 129 have been remanded in custody pending completion of their trial, for a total of 964 political prisoners as of March 11, 2022.

Table 2: Number of Political Prisoners in Hong Kong
(as of March 11, 2022)

Sentenced to prison or to juvenile detention	785
Convicted and remanded in custody pending sentencing	50
Remanded in custody pending completion of their trial	129
Total	964

Of the 964 political prisoners in Hong Kong between June 9, 2019 and March 11, 2022, 532 were currently in custody, and 432 have completed their sentences and were presumed released.¹⁹

D. Key aspects and statistics on Hong Kong political prisoners

i. Length of sentences

Of the 612 political prisoners who have been sentenced to prison, the total length of all of their sentences added together is 772.2 years.

This results in an average prison sentence of about 1.3 years.

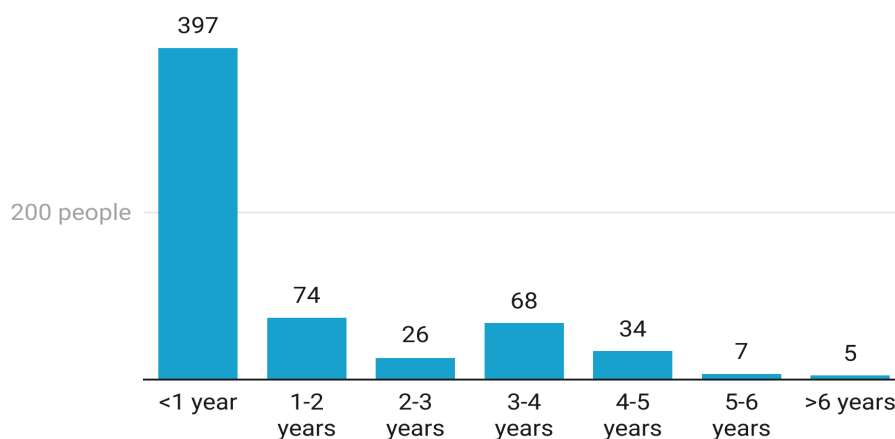
Two-hundred and fourteen individuals have been sentenced to at least one year in prison. Five have been sentenced to more than six years; seven people have been sentenced to between five and six years; 34 to between four and five years; 68 to between three and four years; 26 to between two and three years; and 74 to between one and two years.

Three-hundred and ninety-seven individuals have been sentenced to less than one year in prison.*

* The above figures have been corrected on May 26, 2022 from the original version.

¹⁹ There is no organization or entity consistently monitoring releases from custodial sentences. There is also no evidence of those sentenced to prison or juvenile detention having been kept in custody beyond the end of their sentence. Therefore, for the purposes of this report, those whose sentences in their entirety have been served are presumed to have been released, except in the cases of those who have themselves reported their release or whose release has been reported in the media.

Figure 7: Distribution of Length of Sentences
(as of March 11, 2022)



The longest prison sentences so far are:

- 12 years for possession of explosives
- 9 years for secession and terrorism under the NSL
- 8 years for possession of firearms and ammunition
- 7 years and 9 months for wounding with intent
- 7 years for robbery, assaulting police and unlawful assembly
- 5 years and 9 months for secession under the NSL
- 5 years and 6 months for riot

ii. Types of crimes sentenced

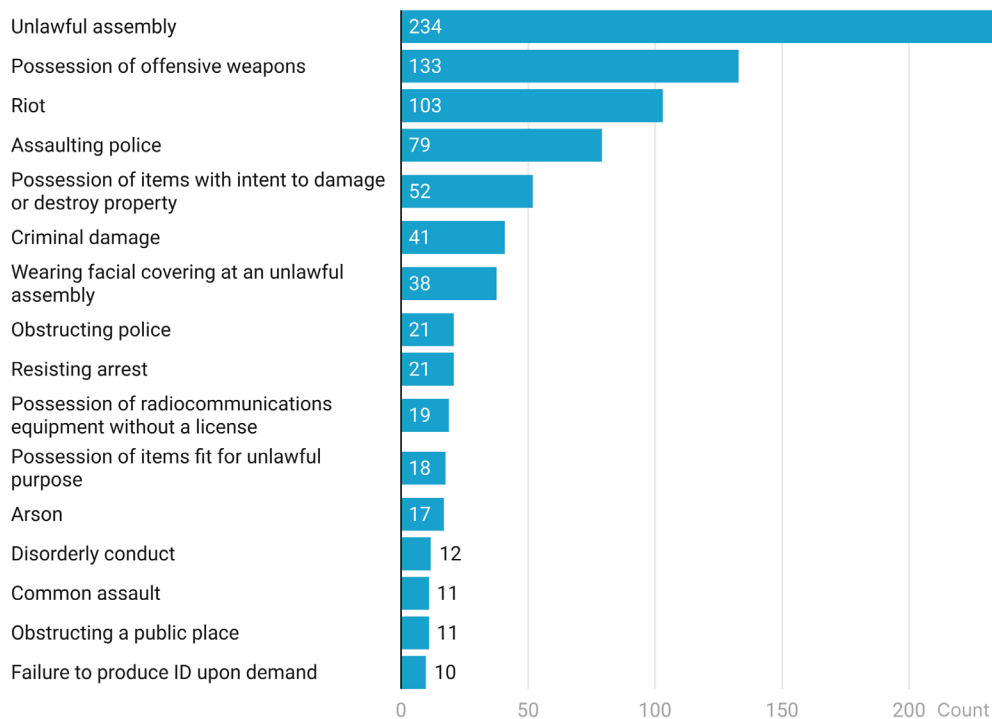
Altogether, the 964 political prisoners have been convicted of 73 different offenses.²⁰

²⁰ A full list of the 73 offenses resulting in custodial sentences: unlawful assembly, possession of offensive weapons, riot, assaulting police, possession of item with intent to damage or destroy property, criminal damage, wearing a facial covering while at unlawful assembly, obstructing police, resisting arrest, possession of radiocommunications equipment without a license, possession of item fit for unlawful purpose, arson, disorderly conduct, common assault, obstructing a public place, failure to produce ID upon demand; (fewer than 10 people were given custodial sentences after conviction for the following offenses) assault occasioning actual bodily harm, possession of explosives, assault occasioning grievous bodily harm, desecrating PRC flag, resisting police, wounding with intent, possession of firearm and/or ammunition without a license, public nuisance, wounding, arson with intent to endanger life, assault with intent to prevent lawful apprehension, dangerous driving, theft, criminal intimidation, displaying seditious materials/publications, false imprisonment, manufacturing explosives, possession of prohibited weapon, secession, breaking and entering, contempt of court, contempt of Legco, dishonest access to computer, endangering safety of others, loitering, money laundering, obstructing a public official, placing objects on the railway, possession of explosive substances, possession of imitation firearm, refusing to obey police order, throwing a corrosive liquid with intent to cause grievous bodily harm, breaching the implementation rules for article 42 of the national security law, disclosing identity of person under investigation by the ICAC, driving a vehicle without insurance, drunk driving, endangering safety of railway passengers, entering MTR without a ticket, inciting others to injure others, indecent assault, intimidation by threatening use of explosives, misconduct in public office, possession of explosives with intent to endanger life or property, possession of firearm and/or ammunition with intent to endanger life, possession of poisons, possession of seditious publications, publishing seditious materials/publications, removing unauthorized items from prison, resisting or obstructing Legco officer, robbery, taking a means of transportation without authorization, terrorism, throwing objects from a building, use of poisonous substances, and violating election ordinance.

The most frequently convicted offenses resulting in custodial sentences are

1. unlawful assembly (234)
2. possession of offensive weapons (133)
3. riot (103)
4. assaulting police (79)
5. possession of items with intent to damage or destroy property (52)
6. criminal damage (41)
7. wearing facial covering at an unlawful assembly (38)
8. obstructing police (21)
9. resisting arrest (21)
10. possession of radiocommunications equipment without a license (19)
11. possession of items fit for unlawful purpose (18)
12. arson (17)
13. disorderly conduct (12)
14. common assault (11)
15. obstructing a public place (11)
16. failure to produce ID upon demand (10).

Figure 8: The 16 Crimes Resulting Most Frequently in Custodial Sentences
(as of March 11, 2022)



The above are the 16 crimes for which 10 or more defendants have been given custodial sentences.

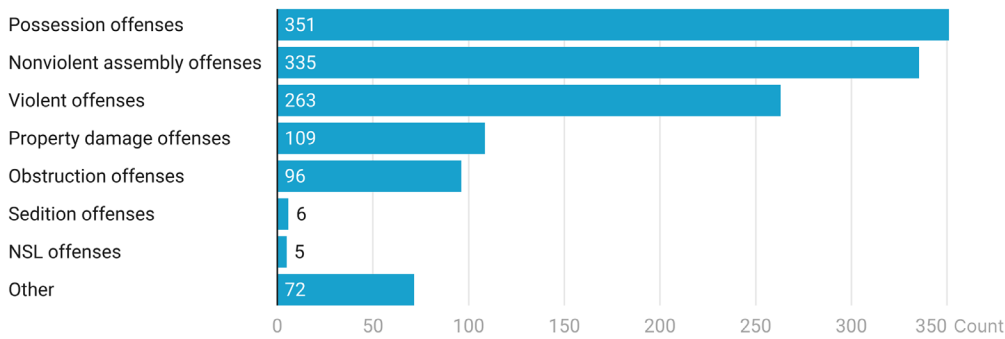
For each of the other 57 crimes, nine or fewer defendants have been given custodial sentences.

Most of the 73 different offenses can be classified in the following main categories (with the number of those given custodial sentences for that type of offense in parentheses):

- possession offenses (351)
- nonviolent assembly offenses (335)
- violent offenses (263)
- property damage offenses (109)
- obstruction offenses (96)
- sedition offenses (6)
- NSL offenses (5)
- other (72)

(Note: Many were convicted of more than one offense.)

Figure 9: Offense Types Resulting in Custodial Sentences
(as of March 11, 2022)



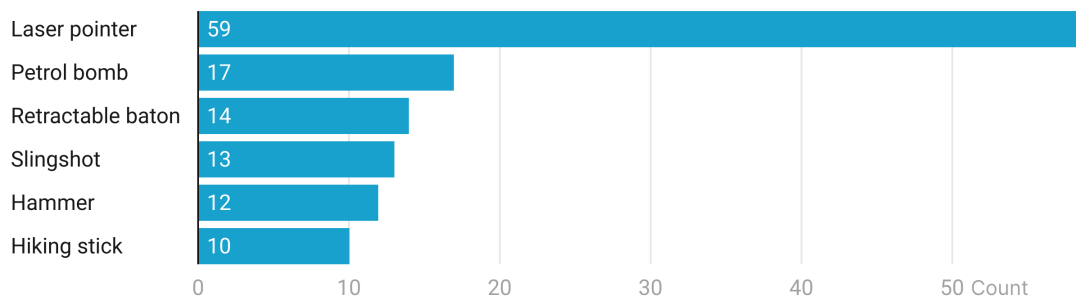
a. Possession offenses

The largest number of custodial sentences—351—has been imposed for possession offenses.²¹ Most of these are for possession of offensive weapons (133), possession of items with intent to damage or destroy property (52), and possession of items fit for unlawful purpose (18).

The most common weapon by far that led to imprisonment on the charge of possession of offensive weapons has been the laser pointer. In all, 59 people have been given custodial sentences for possessing at least one. After that, the most common weapons are petrol bomb (17), retractable baton (14), slingshot (13), and hiking stick (10). Most of these weapons were either homemade (petrol bombs) or repurposed (laser pointer). Notably, virtually all convictions involving laser pointers have been for possession; there are no convictions for assaulting police with a laser pointer and no known examples of police having been injured by laser pointers.

²¹ Possession offenses include: possession of...offensive weapons, items with intent to damage/destroy, items fit for unlawful purpose, explosives, radiocommunications equipment, imitation firearms, poisons, firearms, and ammunition.

Figure 10: Top Weapons Leading to “Possession of Offensive Weapons” Convictions (as of March 11, 2022)



There have been relatively few convictions for possession of items more widely recognized as weapons: 10 for possession of explosives, 6 for possession of firearms without a license, and 2 for possession of imitation firearms.

The most common items that lead to imprisonment on the charge of possession of items with intent to damage or destroy property were: spray paint (18), lighter (9), and lighter fluid (6).

The most common items that lead to imprisonment on the charge of possession of items fit for unlawful purpose were: wrench (8), cable ties (7), pliers (5), hammer (4), and screwdriver (3).

Many of the above are common household items. Because defendants were in most cases apprehended at or near protests, the prosecution was able to persuade the judge that the defendants had “intent to damage or destroy property” or that the items were “fit for unlawful purpose”. Again, as in the case of the laser pointers, there are few convictions for actual use of these items for unlawful purpose or to damage or destroy property. The number of convictions for possession offenses in these categories is far higher than the number of convictions for related crimes involving actions using such items, such as criminal damage and arson.

Overall, these weapons and items hardly constitute an awe-inspiring arsenal, especially when compared with that of a police force which is per capita one of the largest in the world, is heavily armed with large quantities of both lethal and non-lethal weapons, and is dressed in full riot gear with protective equipment.

Nineteen people given custodial sentences were convicted of possession of radiocommunications equipment without a license, but in all cases, they were imprisoned primarily due to convictions on more serious charges. Possession of radiocommunications equipment without a license is usually punished with a fine. In all cases, those convicted possessed walkie-talkies. A bit like laser pointers, which previous to 2019 almost no one would have perceived as a weapon, before the protests hardly anyone knew that it was illegal to possess a walkie-talkie in Hong Kong without a license.

b. Nonviolent assembly offenses

Nearly as many people have been imprisoned for nonviolent assembly offenses (335 counts)²² as for possession offenses (351), significantly more than for violent offenses (263). This proportion will most likely change as hundreds of the yet-to-be-concluded trials are for riot.

A significant proportion of those given custodial sentences for nonviolent assembly offenses were also convicted of other offenses: 96 of possession offenses, 58 of violent offenses, 11 of property damage offenses, and 10 of obstruction offenses.

Many prominent opposition leaders were convicted of organizing and inciting unlawful assembly and imprisoned for it, typically for periods of 12 to 18 months, by far the longest sentences for nonviolent offenses related to the protests. In dozens of cases, the police rejected the applications of protest organizers for a letter of no objection, essentially banning the protests. Many long-time pro-democracy leaders knew that large numbers of people would turn out to protest regardless of whether or not a group had procured a letter of no objection from the police in advance, so they stepped up to lead the protests.

A typical case of this was the August 18, 2019 protest of 1.7 million people. Beforehand, police banned a march but allowed a rally within Victoria Park, despite having been told the park would not be large enough to hold all those who would attend. Indeed, so many protesters turned out that there was no way they could all fit in the park. Many were not even able to get near the park as hundreds of thousands spilled across a miles-long strip of central Hong Kong Island. Pro-democracy leaders, who were simply trying to contend with the situation as it arose, directed those who did manage to get to the park to file out and march in a circular route in a nearby area of Hong Kong Island because they believed it was the safest option given the circumstances. Remarkably, the rally passed off without any injuries, any major altercations between protesters and police, or any violence or arrests. In this sense, it was an extraordinarily successful protest organized and carried out at a moment of high tension between police and Hong Kong people. But nine months after the protest, in April 2020 police arrested nine pro-democracy leaders and charged them with organizing and inciting unlawful assembly. They were eventually convicted and seven were imprisoned for up to 18 months.

Most assembly offenses in Hong Kong fall under the Public Order Ordinance. For years, the United Nations Human Rights Committee (responsible for monitoring compliance with the International Covenant on Civil and Political Rights, to which Hong Kong is party) as well as international human right organizations such as Human Rights Watch advised the Hong Kong government to revise the POO to bring it into compliance with international standards in regard to protection of the right to freedom of peaceful assembly. The UNHRC expressed concern that the ordinance “may facilitate excessive restriction” of the right²³ while HRW has said it is “incompatible with international standards on freedom of assembly.”²⁴ Rather than revising the POO, the Hong Kong government has doubled down and used it as one of the main mechanisms to imprison protesters, thus realizing human rights experts’ fears.

²² Nonviolent assembly offenses include unlawful assembly, inciting unlawful assembly, organizing unlawful assembly, wearing facial covering at unlawful assembly, participating in prohibited group gathering, and organizing prohibited group gathering.⁸ For a full list of political opposition leaders arrested, tried, convicted and imprisoned, see the table, “Arrests & trials of Hong Kong political & protest leaders, as of February 15, 2022” in “Arrests and trials of Hong Kong protesters and opposition leaders”, Kong Tsung-gan, <https://kongtsunggan.medium.com/hong-kong-anti-extradition-demonstrations-and-arrests-8079613e5688>.

²³ For example, see item 10, p.3 of “Concluding observations on the third periodic report on Hong Kong, China”, United Nations Human Rights Committee, 11-28 March 2013, www2.ohchr.org/english/bodies/hrc/docs/co/CCPR-C-CHN-HKG-CO-3_en.doc

²⁴ “Hong Kong: Stop Prosecuting Pro-Democracy Activists”, Human Rights Watch, September 25, 2020, <https://www.hrw.org/news/2020/09/25/hong-kong-stop-prosecuting-pro-democracy-activists>

Prior to the 2019 demonstrations, imprisonment for unlawful assembly was a rarity in Hong Kong. When in 2017, prominent student activists Joshua Wong, Alex Chow, and Nathan Law were imprisoned for unlawful assembly in relation to the 2014 Umbrella Movement, it was a watershed moment. Hong Kong's highest court, the Court of Final Appeal, eventually overturned their prison sentences but upheld harsh new sentencing guidelines imposed by a lower court. In justifying its verdict, it said, "...it is now necessary to emphasise deterrence and punishment in large scale unlawful assembly cases involving violence."²⁵

That landmark ruling which stipulated eight months as the starting point in deciding sentencing in such cases has now led to judges imposing an average sentence of 6.7 months in prison on those convicted of unlawful assembly in the 2019-2020 protests. Two-hundred and thirty-four people have sat in prison for a total of more than 130 years simply for being present at a protest that police decreed unlawful. The injustice of this appears even greater when weighed against the fact that these hundreds are a tiny fraction of the millions who participated in the very same protests but were never charged. Indeed, if the authorities were truly to apply the law uniformly, they would have to imprison most of Hong Kong.

c. Violent offenses; in particular, riot

After possession and nonviolent assembly offenses, the third most common type of offense punished with imprisonment—in 262 cases—has been violent offenses.²⁶

Considerable numbers of protesters have been convicted and imprisoned for assaulting police (79); and various other assault charges (40; namely, common assault—11, assault occasioning actual bodily harm—9, assault occasioning grievous bodily harm—6, wounding—5, wounding with intent—6, and false imprisonment—3).

But the crime in this category that has received by far the most attention is riot, of which 103 have been convicted.

Unlike the other violent crimes, riot is a participation offense; that is to say, it is by definition a crime that can only be committed together with others, much like unlawful assembly. Indeed, like unlawful assembly, it is criminalized under the Public Order Ordinance.

Riot ranks third in terms of crimes that have been punished with prison sentences, after unlawful assembly and possession of offensive weapons. One-hundred and three people have been convicted of riot and sentenced to prison, as opposed to 234 for unlawful assembly and 133 for possession of offensive weapons.

All who have been convicted of riot have been imprisoned. While riot has a maximum prison sentence of 10 years, up to now all who have been prosecuted for riot have been

²⁵ See in particular section E.3b The Court of Appeal's guidance for future cases in the Court of Final Appeal's ruling, which cites in full the sentencing guidelines of the Court of Appeal in paragraphs 120-124. The Court of Appeal decided on eight months' immediate imprisonment as the starting point in determining sentencing in such cases. Full decision: https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=113534&currpage=T

²⁶ Violent offenses include: riot, assaulting police, common assault, wounding, false imprisonment, and fighting in a public place. ²⁴ "Hong Kong: Stop Prosecuting Pro-Democracy Activists", Human Rights Watch, September 25, 2020, <https://www.hrw.org/news/2020/09/25/hong-kong-stop-prosecuting-pro-democracy-activists>

tried in District Court, where the maximum sentence for riot is seven years. Generally, the prison sentences meted out to most of the 103 thus far convicted of riot have ranged between 3 and 5 years. The average sentence is 3 years and 5 months. Many of those convicted of riot are also convicted of other charges. The longest riot sentence so far is 5 years and 6 months for a defendant convicted of two other charges in addition to riot. Of the 20 political prisoners who have received the longest prison sentences, 11 have been convicted of riot and other charges.

Riot will eventually most likely rank as the crime for which the largest number of protesters are sentenced to prison, with 103 already convicted and 627 still on trial.

Most of the riot defendants have been prosecuted in group trials together with co-defendants accused of having committed the crime in the same place and time. These group trials were initially as big as several hundred but were eventually broken up into more manageable sizes. The typical group trial ranges in size from 8 to 15. This is one reason riot trials have taken longer than others and why there are still so many that have yet to conclude. Indeed, some are not even scheduled to commence until 2023, nearly four years after the incidents in question.

“Riot” essentially means the authorities have determined the defendant participated in an unlawful assembly that was predominantly violent in nature. Due to the principle of “joint enterprise,” which applies to the riot offense, simply being present at an unlawful assembly designated as a riot by the authorities and doing anything that can be construed as participation has been sufficient evidence for conviction. Evidence of “participation” in riot may consist of as little as being present and wearing the same color of clothing—black—or possessing protective gear such as face mask and helmet, as several recent riot conviction verdicts have shown.

Prior to 2016, no one had been charged with riot in Hong Kong since the 1997 transfer of sovereignty from the United Kingdom to the People’s Republic of China. At Chinese New Year in February 2016, many were arrested for clashes with the police in Mong Kok, and eventually dozens were convicted of riot and given multi-year prison sentences. Even at the time, many in Hong Kong called for a Commission of Inquiry to look into the causes and other factors behind the clashes between police and protesters. In effect, they were arguing that the authorities should regard the event not just as a criminal matter but also as a political and social issue that needed to be better understood. The regime, however, rejected those calls.

Flash forward to the 2019-2020 protests, and riot has become the authorities’ most preferred charge. This is an attempt, in line with regime propaganda, to delegitimize the protests as mere “violent riots” and, as such, a strictly criminal matter. In this sense, the mass prosecutions are a way for the regime to deny, and thereby avoid addressing, the real political crisis at the heart of the protests.

Near the start of the 2019-2020 protests, on June 12, 2019, the police attacked en masse the approximately 140,000 protesters who had surrounded the Legislative Council building to prevent the council from meeting and passing the extradition bill. The vast majority of protesters that day were entirely peaceful, but the police defended their assault by claiming that the protesters were “rioting”. From that day emerged what would become one of the five demands of the protests, that the authorities stop calling protesters

“rioters” and drop all charges against them. Instead, the characterization of the protests as “riots” fomented by “foreign forces” became one of the regime’s main propaganda lines.

One-hundred and three riot convictions, dozens of acquittals, and 627 riot trials still in progress represent a very large number, and those convicted will altogether end up spending literally hundreds of years in prison, but it is also important to keep in mind that this is out of millions who participated in the protests.

At the heart of the problematic nature of the riot prosecutions, as well as the prosecutions of protesters in general, is the fact that rather than attempting to resolve a political crisis with political means, the regime decided to regard it as essentially a law enforcement problem, and use prosecutions of thousands in the courts to attempt to drive that point home.

d. Other types of offenses

Seventy-six percent of those imprisoned were convicted of possession, nonviolent assembly or violent offenses. The other 24 percent were convicted of property damage, obstruction, sedition or national security law offenses, or a variety of other offenses.

The main property damage crimes, of which 109 of those imprisoned were convicted, are criminal damage (vandalism, graffiti, etc), arson, and desecration of the flag of the People’s Republic of China.

The main obstruction crimes, of which 96 of those imprisoned were convicted, are obstructing police, resisting arrest, and obstructing a public place as well as refusing police orders, contempt of court, failure to produce ID, and perverting the course of justice.

As of now, fewer than a dozen people have been convicted of national security law and sedition crimes, but given that 118 trials are currently on-going and dozens of new arrests have occurred in recent months, convictions and imprisonments for these crimes are, along with those for riot, expected to increase the most of all offenses in the coming months and years.

iii. Juvenile detention

As of March 11, 2022, 169 political prisoners had been sentenced to some form of juvenile detention.

In Hong Kong, people from the age of 14 to the age of 24 can be sentenced to juvenile detention.²⁷

There are three types of juvenile detention: rehabilitation centre, detention centre and training centre. 112 have been sentenced to rehabilitation centre, 29 to detention centre and 27 to training centre. (One has been sentenced to a reformatory.)

²⁷ For an overview of the juvenile detention system in Hong Kong, see “What are Detention Centre Order, Training Centre Order, and Rehabilitation Centre Order?”, <https://familycljc.hk/en/topics/child-and-youth-affairs/crimes-commonly-committed-by-young-people/faq-3/>

The decision of whether to sentence a person convicted of a crime to juvenile detention or impose some other type of sentence is to a large extent left to the discretion of the judge.

Typically, after a person is found guilty, if the judge believes juvenile detention may be appropriate, the judge orders a report by social workers before sentencing, but it is still up to the judge whether or not to follow the report's recommendations.

Generally speaking, those at the lower end of the 14-to-24 age limits are rarely sentenced to prison while those nearer the upper end may be sentenced to prison or to juvenile detention. In dozens of political cases, the prosecution has appealed non-custodial sentences of juveniles on the grounds that they are too lenient and asked the court to impose custodial sentences. More often than not, the court has assented.

Unlike prison sentences, juvenile detention sentences are not for a specific length of time. The legally allowable time of incarceration in a rehabilitation centre ranges from a minimum of 3 months to a maximum of 9 months; in a detention centre, from a minimum of 1 month to a maximum of 12; and in a training centre, from a minimum of 6 months to a maximum of 3 years.

That means the 112 sentenced to rehabilitation centre could serve anywhere between a minimum of 336 months and a maximum of 1,008 months; the 29 sentenced to detention centre, anywhere between a minimum of 29 months and a maximum of 348 months; and the 27 sentenced to training centre, anywhere from a minimum of 162 months to a maximum of 972 months. That makes for a total of a minimum of 527 months (43 years and 11 months) served and a maximum of 2,328 months (194 years) served.

Adding that to the time to which those in prison have been sentenced, 772 years, would result in a minimum of 815 years and a maximum of 966 years in prison or juvenile detention for the 785 people given custodial sentences in relation to the 2019-2020 protests, political opposition, and/or conviction for NSL crimes.

There has been no information on the actual length of time served by political prisoners sentenced to juvenile detention. It is unknown whether or not the Hong Kong government even keeps such statistics in regard to those sentenced for protest-related crimes. Even before the 2019 protests, the Hong Kong juvenile detention system was opaque, with very little media coverage and very little information provided publicly by correctional authorities, and that has continued to be the case since then. Virtually no reports have emerged from those convicted of protest-related crimes who have been released from juvenile detention.

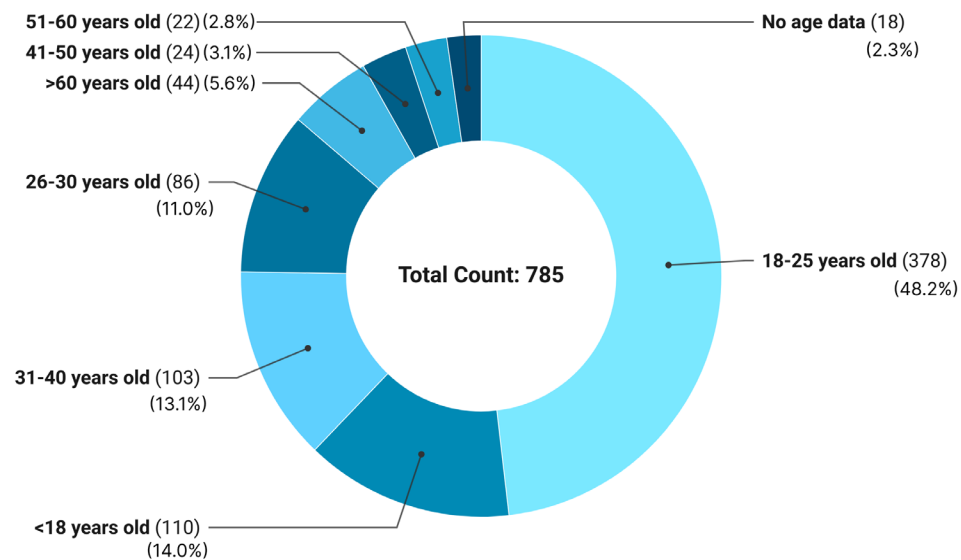
iv. Disproportionately large representation of young people

It has been disproportionately young people who have received custodial sentences:

- 14 percent of those given custodial sentences are under the age of 18;
- 48.2 percent are between 18 and 25; and
- 11 percent are between 26 and 30.

In all, 73.2 percent of those given custodial sentences are under the age of 30.

Figure 11: Distribution of Custodial Sentences by Age Group
(as of March 11, 2022)



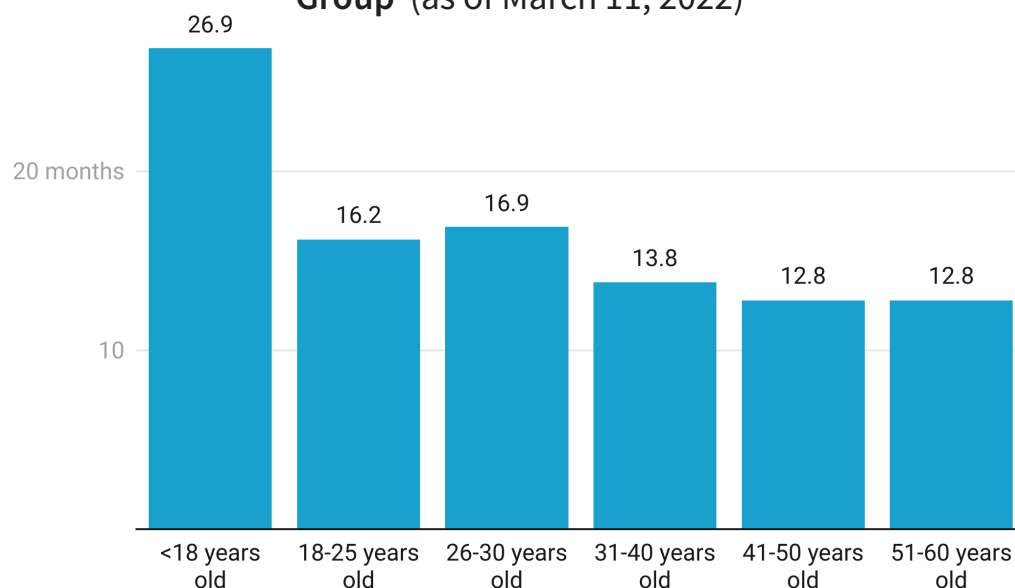
The under-30s also have the longest prison sentences:

- Those under the age of 18 have been sentenced to an average of 26.9 months in prison;
- those between 18 and 25 to an average of 16.2 months; and
- those between 26 and 30 to an average of 16.9 months.

This doesn't even take into account the 169 young people sentenced to juvenile detention, since those sentences come with no fixed terms, only minimum and maximum lengths of time.

The average sentence for those over the age of 30 is between 13 and 14 months.

Figure 12: Average Length of Sentence (in months) by Age Group (as of March 11, 2022)



How will prison affect the outlook of these young people spending a significant portion of their lives behind bars for participating in protests? What will become of their lives afterwards? Given the severe repression that currently prevails, is there any future for them in Hong Kong?

One of the distinguishing characteristics of the 2019-2020 protests and indeed of Hong Kong people's resistance to tyranny down to the present is the great solidarity among participants of all ages. In general, older people regard young people with reverence and admiration because they took on disproportionate risks and are now making disproportionate sacrifices. Polls in the past also consistently showed that a larger percentage of young people valued democracy, freedom, human rights and autonomy for Hong Kong than of their older counterparts. Their ideals were Hong Kong's future. Faced with that, the CCP either had to accommodate them or smash them. It has opted for the latter. The imprisonment and repression of young people are an attempt to abolish the right of Hong Kong people to determine their own future.

v. Average time between arrest and sentence

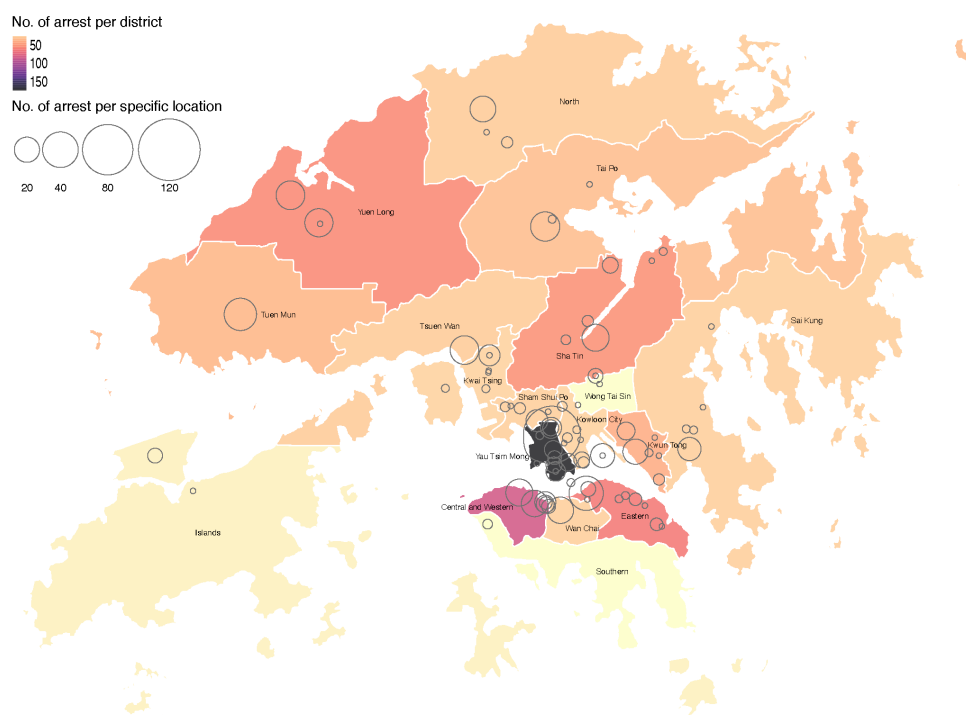
Among the 785 political prisoners given custodial sentences, an average of 515.2 days elapsed from the time of their arrest to the time of sentencing. This is almost a year and a half, a significant period during which the defendant's life is essentially put on hold, as it is difficult to make any future plans with the prospect of prison looming.

vi. Top arrest locations

A map of the places around Hong Kong where those eventually convicted and given custodial sentences were arrested shows a total of 38 different areas. While Mong Kok (104) and Causeway Bay (74) stand out as the locations where the largest number of arrests that lead to

imprisonments occurred, the fact that there are 36 other locations around Hong Kong that were the sites of arrests of eventually-imprisoned protesters is first and foremost a sign of how widespread the protests were, encompassing just about every area of the city with any significant population. The arrest map correlates with a map of protests to indicate an enormously high participation rate.²⁸

Figure 13: Top Locations of Arrests that Eventually Led to Imprisonment
(as of March 11, 2022)



vii. The rise of remand as a form of long-term detention

Up to now, the report has focused on the 785 political prisoners convicted and sentenced to either imprisonment or juvenile detention.

As of March 11, 2022, 179 others were remanded in custody.²⁹ Of those, 129 were remanded pending completion of their trials and 50 were remanded after having been convicted and pending sentencing.*

Of those 50 remanded in custody pending sentencing, most will remain on remand for only a short period. The usual length of time between conviction and sentencing is about two weeks.

²⁸ For a full list and map of 1,096 protests, see "Hong Kong pro-democracy protests 2019-2020", Kong Tsung-gan, <https://kongtsunggan.medium.com/hong-kong-protests-2019-82cf32383605>.

²⁹ In addition to the 73 different offenses for which political prisoners have received custodial sentences (see above), there are eight others with which those on remand have been charged: causing an explosion, subversion, collusion with foreign forces, entering or remaining within the confines of the Legislative Council, money laundering, publishing seditious publication, possession of child pornography, import of strategic commodities without a license, and murder. This brings the total of offenses with which political prisoners have been charged to 82.

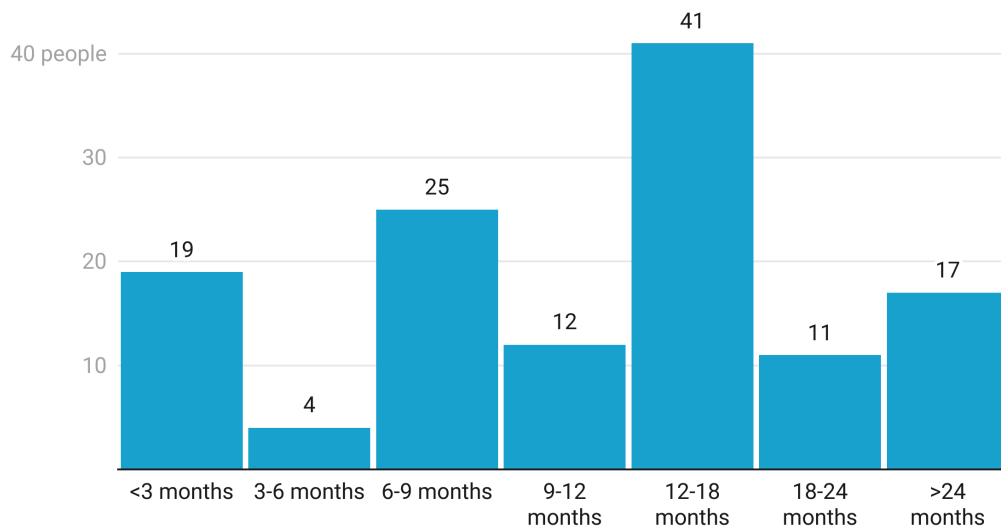
* In this section on remand in custody pending completion of trial, several figures from the original version of the report have been corrected on May 25, 2022.

Many of the 129 remanded in custody pending completion of trial are spending years behind bars before any verdict. The rise of remand as a means of keeping political opponents in long-term detention is a major issue with implications for their basic rights, such as the right to presumption of innocence and the right to a fair trial.

Of those remanded in custody pending completion of trial, the average time spent in custody is 12.4 months. More specifically:

- 17 have been detained for more than 24 months
- 11 for 18 to 24 months
- 41 for 12 to 18 months
- 12 for 9 to 12 months
- 25 for 6 to 9 months
- 4 for 3 to 6 months
- 19 for 3 months or less

Figure 14: Time Spent in Custody Pending Completion of Trial
(as of March 11, 2022)



In addition to that, the overall number of political remandees is by far the highest that it has ever been, largely owing to the “national security law”. About 76 percent of those on remand are charged with NSL and/or sedition offenses:

- 63 with NSL offenses
- 18 with sedition offenses
- 7 with both NSL and sedition offenses³⁰
- 50 with violent offenses

³⁰ On April 27, 2022, the Hong Kong government's Security Bureau released updated data about “national security law” arrests and prosecutions. According to this most recent statement, 78 persons as of February 28, 2022 have been remanded in custody on charges related to “acts that endanger national security (including those concerning offences under the National Security Law and other offences endangering national security)”, a significantly lower number than the 103 documented in this report. See: <https://www.info.gov.hk/gia/general/202204/27/P2022042700446.htm>

(Some are charged with both NSL and violent multiple offenses.)

In Hong Kong, after arrest, police can legally detain suspects for up to 48 hours. Before that 48-hour period is elapsed, police have the following options: 1) release the detainee unconditionally, 2) release the detainee on bail, or 3) bring the detainee to court to be formally charged. In court, the prosecution can request that the defendant be remanded in custody, and the judge determines whether or not to grant the request.

A direct effect of the NSL has been a substantial increase in the number of detainees in long-term pre-trial detention. In contrast to Hong Kong's common law tradition which, in matters of bail, puts the onus on the prosecution to prove that the defendant would be a threat to himself or others if released, the CCP-imposed NSL puts the onus on defendants to prove they will not reoffend if released on bail pending completion of trial.³¹ The defendant essentially must prove to the designated NSL judge that s/he will not re-commit a crime that he has not even yet been tried for, let alone convicted of. Most don't manage to do that and are remanded in custody pending completion of trial.

Whereas prior to the imposition of the NSL, the number of political detainees in pre-trial detention from August 2019 to June 2020 fluctuated between 60 and 90, after the imposition of the NSL, the number of political detainees in pre-trial detention has increased to a record of 129 as of March 11, 2022.³²

The NSL has, in effect, created a new class of political detainee that didn't previously exist in Hong Kong. Given the lengthy, sometimes years-long periods between arrest and completion of trial, the regime now appears to be using long-term pre-trial detention to remove influential political figures from society and keep them "out of circulation" until they can finally be convicted and imprisoned once and for all.

Many political opposition leaders are caught in a web of a combination of multiple NSL and non-NSL trials and convictions that keep them indefinitely incarcerated.

The case of Tam Tak-chi, leader of the pro-democracy People Power political party, illustrates well the regime's strategy of using a variety of means to keep opposition leaders in various forms of detention as long as possible. He was arrested on September 6, 2020 and charged in court on September 8 with eight counts of sedition and six other crimes, primarily for political slogans he shouted at street stations and rallies between January and July 2020. He was immediately remanded in custody, and remained on remand for 20 months under solitary confinement until he was sentenced on April 20, 2022 to 40 months in prison. Considering time already spent on remand and with time off for good behavior, he will be eligible for release from prison on November 11, 2022. But he is also charged with "conspiracy to commit subversion" under the national security law for his participation as a candidate in the July 2020 pro-democracy primary. Thirty-three of his 46 co-defendants in that trial have been remanded in custody since

³¹ The NSL is a Chinese law drafted and passed by the National People's Congress and promulgated by insertion into the Basic Law of Hong Kong without any amendment by local executive or legislative branches to ensure it complies with Hong Kong's common law. In fact, it is soldered onto existing common law.

³² When the NSL was imposed on June 30, 2020, there were 1,602 on-going political trials. That number reached a peak on October 31, 2020 with 1,703. Since then, it has gradually declined to the current number, as of March 11, 2022, of 1,159. That is to say, the percentage of those remanded in custody of those on trial was about 5 percent on the eve of the imposition of the NSL. The percentage as of March 11, 2022 is a little over 15.

they were charged in February 2021. The start date for their trial has yet to be scheduled. When he is released from prison after completing his 40-month prison sentence for “sedition” and other charges, he will probably be immediately remanded in custody pending completion of trial for “conspiracy to commit subversion.” The chance of being convicted of that charge is high, in which case he would move once again from remand back to prison. Tam Tak-chi may end up spending years in prison for shouting political slogans and participating in a pro-democracy primary.

The use of indefinite pre-trial detention to keep political opponents behind bars is a common rights abuse in many authoritarian societies. While pre-trial detention in Hong Kong cannot be considered entirely indefinite because all of those in remanded in custody pending completion of trial have been charged in court with recognizable offenses and their judicial process has commenced, in many cases they are waiting many months and even longer for their trial proper to begin, often without its start date having even been set.

While most attention has been given to remandees charged with nonviolent NSL or sedition crimes, the plight of those remanded on violent (50), possession (32) and/or property damage (12) charges is also noteworthy, not least of all because of the long time they have spent on remand. (Note: several are charged with more than one offense.) The possession offenses mostly have to do with firearms or explosives. The violent offenses are riot, wounding, and murder, as well as seven terrorism cases under the NSL.

Among those remanded in custody pending completion of trial are 11 who were minors at the time of their arrest, ranging in age from 15 to 17. This represents nearly 10 percent of the overall total of 129. Of these 11, two have been remanded for 27 months; one has been remanded for 14 months; four have been remanded for 10 months; and four have been remanded for eight months. Three of the minors are 15 years old; five are 16; and three are 17. According to Article 3 of the Convention on the Rights of the Child, which applies in Hong Kong, “In all actions concerning children,” including those undertaken by courts of law, “the best interests of the child shall be a primary consideration.” It is unclear whether or not any of the authorities involved have given primary consideration to the best interests of these children when keeping them on long-term remand pending completion of trial.

3. Hong Kong political prisoners in global context

The mass imprisonment of political enemies is one of the clearest indicators of the extent to which Hong Kong has rapidly become an authoritarian society in the space of less than three years.

Hong Kong’s 1,014 political prisoners put it in the company of other repressive countries with hundreds of political prisoners, just behind Belarus and Cuba and ahead of Iran, Russia, Venezuela and Nicaragua.

Just as significantly, Hong Kong has one of the fastest growing populations of political prisoners, along with Burma, Belarus and Cuba. From November 2021 to May 2022, the number of political prisoners in Burma increased from 7,013 to 10,571 (a 34-percent increase); in Belarus from 827 to 1,187 (30 percent); in Cuba from 683 to 1,218 (44 percent); and in Hong Kong from 657 to 1,014 (35 percent).

Table 3: Political Prisoners by Country
(as of May 2022)

Country	Number of political prisoners	Source, notes
China	1 million + 1,598	An estimated 1 million Turkic Muslims in camps in Xinjiang; Congressional-Executive Commission on China counts 1,598 others as of October 2019
Syria	151,462	Syria Network for Human Rights, as of August 2021; number is of those still under arrest or forcibly disappeared since 2011
North Korea	Up to 120,000	Committee for Human Rights in North Korea, as of 2018, and a United Nations report of 2014
Egypt	65,000	Arabic Network for Human Rights Information, as of March 2021
Turkey	40,000	Stiftung Wissenschaft und Politik, as of June 2020
Burma	10,571	Assistance Association for Political Prisoners, number under detention as of May 9, 2021
Eritrea	10,000	Amnesty International, as of 2013; since then, numerous groups report “thousands”
Israel/ Palestine	4,400	Addameer Prisoner Support and Human Rights Association, as of April 8, 2022; Palestinians imprisoned by Israel for political reasons
Uzbekistan	2,000	US Commission on International Religious Freedom, as of October 2021. Most are imprisoned for reasons of religious belief.
Bahrain	1,400	Bahrain Institute for Rights and Democracy, as of September 2021
Cuba	1,218	Prisoners Defenders, as of May 9, 2022
Belarus	1,187	Viasna Human Rights Center, as of May 9, 2022
Hong Kong	1,014	Hong Kong Democracy Council, as of May 10, 2022
Iran	605	Iran Prison Atlas, as of April 2022

Country	Number of political prisoners	Source, notes
Russia	420	Memorial Human Rights Center, as of November 9, 2021 (Note: OVD-Info reports 15,415 have been detained for anti-war protests as of February 24, 2022; most are fined and released within a matter of days)
Venezuela	241	Foro Penal, as of March 28, 2022; 15,748 arbitrary detentions for political reasons since 2014
Nicaragua	171	Mecanismo de Reconocimiento de Presos Políticos, as of April 2022

Note: Many other countries detain hundreds of political prisoners. The above list is not intended to be exhaustive.

The number of political prisoners in Hong Kong is all the more remarkable considering two factors: 1) political prisoners as a percentage of total population and 2) Hong Kong's historically well-respected rule of law and judicial independence.

Among countries with a similar number of political prisoners (ie, in the hundreds or thousands rather than in the tens or hundreds of thousands), only Burma has more political prisoners as a ratio of its population (1.94 persons per 10,000) than Hong Kong (1.36). Belarus (1.26) and Cuba (1.07) come close. Nicaragua (0.25), Venezuela (0.08), Iran (0.07), and Russia (0.02) trail far behind.

Hong Kong is different from every other country on that list except Israel in that it has a judicial system that is far more developed, professional, and, at least until recently, independent and respectful of the rule of law. The other countries (again, excepting Israel) have a judiciary that is essentially controlled by those in political power, with much less traditional respect for rule of law. In Hong Kong, the regime has faced greater judicial and legal obstacles than in countries that have been authoritarian far longer. That, in spite of those, it has managed to lock up so many political prisoners, brings into even starker relief just how far and how quickly Hong Kong has fallen.

This report has detailed how civil and political rights traditionally respected in Hong Kong—in particular, freedom of expression, freedom of assembly, freedom of association, political participation and universal suffrage—have been either suspended, unreasonably restricted or abolished. In addition to those, rights associated with the right to a fair trial are also under threat, most directly by the national security law but also by the regime's unrelenting pressure on the judiciary to abide by its will and accede to its demands.

Hong Kong is now a case study in how a relatively independent judiciary with high professional standards anchored in a common law tradition can be made to serve the political will of an authoritarian regime.

Conclusion

The number of political prisoners is virtually certain to increase substantially. There are 1,159 defendants still on trial. Most of those whose trials have not yet concluded are charged with more serious crimes. Yet to conclude are 627 riot trials as well as 95 NSL and 32 sedition trials. Based on patterns up to now, including a 67-percent conviction rate in political trials, the conviction rate will continue to be high and those convicted will be sentenced to multi-year prison terms.

There will most likely be a significant number of political prisoners in Hong Kong for years to come.

Most people know someone who's been subject to arrest, prosecution and imprisonment. They are family members, neighbors, colleagues, schoolmates, friends or acquaintances. The phenomenon of mass arrest, prosecution and imprisonment has left a deep mark on the Hong Kong people that will not be easily forgotten or forgiven.

The grim reality is that Hong Kong today is one big open-air prison. Of course, there is a difference between those within the confines of the prisons operated by the Correctional Services Department and the larger prison of Hong Kong society, but a great many find the repression beyond prison bars suffocating. More than 100,000 people have left the big prison of Hong Kong since the start of 2021, emigrating to rights-respecting countries where they must start over but at least can breathe freely. More than 800 have fled Hong Kong due to persecution of themselves specifically as individuals.

There is a direct link between those behind prison bars, those in the open-air prison of Hong Kong, and those in the growing diaspora. In seeking to stamp out the contagion that is the desire for democracy and political freedom, the regime has only managed to deepen and spread it. Over these years of struggle, and especially since 2019, a distinct Hong Kong identity and consciousness have been forged, based on our shared values and ideals, creating a bond between us all. Ironically, by imprisoning 1,014 political prisoners and cracking down on Hong Kong society, the CCP, rather than crushing us, has—in our ability to tell right from wrong, in commitment to our beliefs, in solidarity with one another, in willingness to defend our home—made us stronger.

Recommendations

In light of the enormous increase in the number of political prisoners and the human rights crisis in Hong Kong, we make the following recommendations to governments, international bodies, and other relevant actors.

To the United States government:

- Impose sanctions under the Hong Kong Autonomy Act (P. L. 116-149) and Executive Order 13936 on designated national security law judges, including those of the Court of Final Appeal, many of whom have arbitrarily denied defendants bail and disregarded international human rights treaties and standards in their judgments,³³ and on the members of the Committee for Safeguarding National Security of the Hong Kong Special Administrative Region in their official capacities for implementing the NSL regime and materially contributing to the decimation of Hong Kong's autonomy.³⁴

To the United States government and in particular, Congress:

- Expedite the creation of humanitarian pathways for politically persecuted Hong Kongers, in particular by retaining Hong Kong People's Freedom and Choice provisions in the America COMPETES Act of 2022 (Sec. 30303, H.R.4521) during conferencing, as such provisions will allow Hong Kong people who face political persecution to seek safe haven in the United States; and by easing the non-immigrant visa application process for Hong Kongers who have been arrested or prosecuted for protest-related offenses, especially so that "the intent to immigrate will not be considered as a factor for non-immigrant visas," similar to provisions in the Hong Kong Safe Harbor Act (H.R. 461)

To the ten remaining Overseas Non-Permanent Judges³⁵ on the Hong Kong Court of Final Appeal:

- Resign from the Hong Kong Court of Final Appeal on grounds that the Hong Kong judiciary is no longer sufficiently independent and has failed in its duty to uphold protections of basic human rights guaranteed in the Basic Law, in light of the findings of this report, the fact that at least five of their colleagues on the Court of Final Appeal have been designated by the Chief Executive as national security law judges, and the recent resignations of Lord Reed and Lord Hodge who noted that judges "cannot continue to sit in Hong Kong without appearing to endorse an administration which has departed from values of political freedom, and freedom of expression."

³³ Currently known judges designated to hear national security law cases include Chief Justice Andrew CHEUNG, Mr. Justice RA V RIBEIRO, Mr. Justice Joseph P FOK, Mr. Justice Patrick CHAN, and Mr. Justice Frank STOCK on the Court of Final Appeal; Mr. Justice S C POON, Mr. Justice Wally YEUNG, Mr. Justice Johnson LAM, Madam Justice Esther TOH, Madam Justice Anthea PANG, Mr. Justice Anderson CHOW, Mr. Justice Wilson CHAN, Mr. Justice W T LEE on the High Court; Mr. Judge Stanley CHAN and Ms. Judge Amanda J WOODCOCK on the District Court; and Mr. W T SO in the Magistrates' Courts.

³⁴ The Committee for Safeguarding National Security of the Hong Kong Special Administrative Region comprises the Chief Executive, Chief Secretary for Administration, Financial Secretary, Secretary for Justice, Secretary for Security, Commissioner of Police, the head of the Department for Safeguarding National Security of the Hong Kong Police Force, Director of Immigration, Commissioner of Customs and Excise, and the Director of the Chief Executive's Office.

³⁵ The ten remaining Overseas Non-Permanent Judges are Robert French, Anthony Gleeson and William Gummow of Australia; Beverley McLachlin of Canada; and Lords Lawrence Collin, Leonard Hoffmann, David Neuberger, Nicholas Phillips, Jonathan Sumption, and Robert Walker of the United Kingdom.

To the Working Group on Arbitrary Detention, Office of the High Commissioner for Human Rights, United Nations:

- Investigate cases of arbitrarily imposed deprivation of liberty as outlined in the present report and detailed in the accompanying database, as well as other submissions from civil society, and transmit to the Hong Kong government allegations regarding the pervasive abuse of pre-trial detention.

To the United Nations Human Rights Committee:

- Investigate the information contained in this report as well as other submissions from civil society regarding the persecution of an enormous number of political prisoners and the associated broader violations of civil and political rights, in particular, the rights to freedom of expression, freedom of assembly, freedom of association, political participation, and a fair trial including the presumption of innocence, and make related recommendations to the Hong Kong government to release the political prisoners and guarantee the associated rights.

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A graphic consisting of several vertical black bars of varying heights, creating a cage-like or barcode-like effect. The bars are set against a white background that is part of a larger yellow and white design.

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