

Joint statement from NGOs on Lord Neuberger's role on the Hong Kong court

Dear Lord Neuberger,

In light of your former position as President of the British Supreme Court, we, the undersigned, urge you to seriously reconsider your position on the Hong Kong court, following the denied appeals of the convictions of Jimmy Lai, Martin Lee, Margaret Ng, Albert Ho, Lee Cheuk-yan, “Long Hair” Leung Kwok-hung and Cyd Ho.

These seven democrats would not be found guilty under other common law systems, including in Britain, for partaking in their right to assembly during a peaceful march in 2019. This is a right guaranteed under Hong Kong's Basic Law, and Hong Kong's obligations under international law.

As one of five judges ruling in this case, you will know that the defence cited two UK Supreme Court decisions on the proportionate restriction of fundamental rights. However, these citations were rejected by the Hong Kong Court of Final Appeal, on the grounds that “UK cases should not be followed in Hong Kong”. As a former British judge, it is crucial to consider how to balance this rejection with your publicly stated intention to sit for “as long as I can do good by being there”.

There were also legal technical viewpoints to justify the rejection of appeal in the 76-page judgement, in which you unreservedly agree with the fellow Hong Kong judges. That said, the bigger picture demonstrates that the Public Order Ordinance, the local criminal law centred in this case, has been widely weaponised by the authorities to crack down on free peaceful assembly and thousands of protestors in 2019. In your opinion in the judgement, you have not spoken against the greater evil of the Public Order Ordinance. You were not eager to provide any dissenting opinion to emphasise the importance of free peaceful assembly and free speech in Hong Kong as a repressive jurisdiction nowadays. This does not appear to be consistent with your previous effort in advocating free speech and press freedom, as you highlighted in the promotion of your book [*Freedom of Speech in International Law*](#).

Serving as a non-permanent judge in Hong Kong's Court of Final Appeal was appreciated as performing the function of a watchdog of the local court to warrant public confidence in light of Hong Kong's “one country, two systems” formula under the shadow of China. Nevertheless, your involvement and judgement in this case not only appear to window-dress the government suppression of pro-democracy activists and a media publisher, but further legitimise their crackdown with your authority and fame.

Under the [*Guide to Judicial Conduct*](#) in the United Kingdom,

“Retired judicial office holders may still be regarded by the general public as representatives of the judiciary. They should exercise caution and are encouraged therefore to refer to this guidance so as to avoid any activity that may tarnish the reputation of the judiciary.” (p.6)

Given that your involvement in the Hong Kong court is in effect sponsoring a systematic repression of human rights against peaceful activists and journalists in the city, we are deeply concerned that your continuation of service in Hong Kong is further tarnishing the reputation of the British judiciary.

We implore you to immediately follow the example of your British and other foreign colleagues who have decided to step down from the Hong Kong courts. In an environment where business is far from usual, you must not contribute to the rapid deterioration of fundamental rights and freedoms, no matter the payout.

Judges from democratic, rule of law countries should not be lending prestige to the rapidly deteriorating justice system in Hong Kong. The Hong Kong government, under direction from Beijing, has lost its legitimacy. We urge you to do the right thing and reconsider your position on the Hong Kong court.

Yours sincerely,

Signatories in alphabetical order

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AHKF (AfricaHongKongFrance)
ARTICLE 19
Adelaide Stand with Hong Kong
Asian Lawyers Network (ALN)
Assembly of Citizens’ Representatives, Hong Kong
Association of Hong Kongers in Western Australia
Australia Hong Kong Link
Australia Capital Hong Kong Association
Australia Hong Kong Link NSW Chapter
Befria Hongkong (Sweden)
Bonham Tree Aid
Canadian Friends of Hong Kong
Canada-Hong Kong Link
Coalition of Students Resisting the CCP
Committee to Protect Journalists

DC4HK (Washingtonians Supporting Hong Kong)
Democracy for Hong Kong (D4HK)
Freiheit für Hongkong e.V.
Hongkongers in Britain (HKB)
Hongkonger in Deutschland e.V. (HKDE)
Hong Kong Centre for Human Rights
Hong Kong Committee in Norway
Hong Kong International Alliance Brisbane (HKIA Brisbane)
Hong Kong Labour Rights Monitor
Hong Kong Liberty
Hong Kong Watch
Hong Kongers in San Francisco Bay Area
Human Rights in China
Le Comité pour la Liberté à Hong-Kong
Manchester Stands With Hong Kong
Netherlands for Hong Kong
NGO DEI
Northern California Hong Kong Club
Nottingham Stands with Hong Kong
Reading UK Stands With Hong Kong
RTYC Toronto, Canada
Safeguard Defenders
Scottish Hongkongers
Southampton HongKongers
The 29 Principles
Toronto Association for Democracy in China
Trafford Hongkongers CIC
Uyghur Rights Advocacy Project
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