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CIVILIAN SECURITY, DEMOCRACY, HUMAN RIGHTS AND GLOBAL
WOMEN'S ISSUES**

**THE STATUS OF DEMOCRACY AND HUMAN RIGHTS IN HONG KONG, FIVE
YEARS AFTER THE PRC'S JUDICIAL TAKEOVER**

OPENING STATEMENT AND WRITTEN TESTIMONY

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INTRODUCTION

1. My name is Caoilfhionn Gallagher KC. I am a barrister (King's Counsel) and international lawyer, specialising in human rights and media law. My clients are based around the world: I regularly act for individuals targeted by, or imprisoned in, a range of countries, including the People's Republic of China ("PRC"), the Islamic Republic of Iran, the Kingdom of Saudi Arabia, Egypt, and Russia. Many of my clients are journalists, human rights defenders, peaceful protestors, lawyers and other individuals who have been targeted by State or non-State actors and subject to other forms of reprisal, including arbitrary detention and threats to their life, because of they seek to vindicate their internationally protected rights or the rights of others, or to expose the unlawful conduct of individuals, government, and/or corporations. Many of my clients are businesspeople, targeted by authoritarian regimes in order to wrongly appropriate their assets or seize their businesses.
2. I am an expert in both arbitrary detention and accountability for crimes against journalists. My caseload includes leading the international legal teams for renowned pro-democracy activist and publisher *Jimmy Lai*, imprisoned in Hong Kong; for the bereaved family of journalist *Daphne Caruana Galizia*, assassinated in Malta; for over 150 *BBC News Persian* and hundreds of *Iran International* journalists, subjected to transnational repression by Iran; and for *Maria Ressa*, the Nobel Peace Prize winning journalist (and US citizen) targeted for her work in the Philippines. I was appointed an expert by the Inter-American Court of Human Rights on the safety of female journalists (*Jineth Bedoya Lima v. Colombia*) and I have given expert testimony to Parliamentary inquiries and committees in the USA, Council of Europe, United Kingdom, Canada, Australia and the European Union.
3. I would like to thank the Senate Foreign Relations Committee's sub-committee for inviting me to give testimony today about the status of democracy and human rights in Hong Kong, five years after the PRC's judicial takeover. That topic and the fate of one man are inextricably linked: Jimmy Lai. Mr Lai is a journalist, a publisher, a businessman and a prisoner of conscience. For his public interest journalism, his defence of press freedom and democratic values and his courage in speaking truth to power, Jimmy Lai has been imprisoned in solitary confinement in Hong Kong since December 2020, has faced a barrage of spurious prosecutions, and is currently being subjected to a long, unfair trial on charges of sedition and alleged violation of the draconian Law of the People's Republic of China on Safeguarding National Security in the Hong Kong and Special Administrative Region ("NSL"). His case is emblematic of the crackdown on human rights, media freedom and democracy in Hong Kong.

JIMMY LAI AND APPLE DAILY: BRIEF BACKGROUND

4. Since the 1989 Tiananmen Square protests and massacre, Mr Lai has been a leading figure in the Hong Kong pro-democracy movement. He is a well-known and high-profile advocate for democracy and peaceful assembly, and fearless critic of the government and authorities of the PRC. His response to the Tiananmen Square events was to found *Apple Daily*, which quickly became one of Hong Kong's most popular newspapers. It was the

largest independent Chinese language media outlet in the region until its forced closure in June 2021. For Mr Lai, access to free and independent information gives people choice, and choice is freedom. Through his fearlessly independent journalism and his peaceful pro-democracy activism, Jimmy Lai became a figurehead in the Hong Kong pro-democracy movement and a courageous critic of human rights violations perpetrated by the authorities. In his words, *“I think it is my duty to do whatever I can to fight for freedom and keep the rule of law here”*.

5. Under his leadership, Apple Daily was an ally to the pro-democracy movement, including in its support for the ‘Umbrella Movement’ that swept Hong Kong in 2014. As activists ceased their protests in 2015, the front-page editorial of Apple Daily proclaimed – *“We will put away our umbrellas so that one day we can reopen them again.”*
6. Following the pro-democracy protests of 2019 and 2020, police repeatedly raided Apple Daily, confiscating documents, arresting senior staff and freezing the newspaper’s assets. Marched from the newsroom in handcuffs in August 2020, Jimmy Lai was among the first to be arrested under the controversial, authoritarian NSL. Victoria Tin-bor Hui, a professor of political science at University of Notre Dame has said, *“It would not be an overstatement to say that the national security law was made for Jimmy.”*
7. *Apple Daily* itself was forced to close following the freezing of its assets under the controversial and draconian NSL.
8. Due to his work and his pro-democracy campaigning, Mr Lai has faced a barrage of spurious prosecutions. He was arrested under the NSL in August 2020 and has been arbitrarily detained in a maximum-security prison and in solitary confinement for over 4 and a half years, since December 2020. He has served four sentences of imprisonment already and is currently serving a fifth in circumstances where the UN Working Group on Arbitrary Detention (“WGAD”) has found that the actions against Mr Lai are *“intended to prevent him from exercising his right to freedom of expression”*,¹ and he has faced multiple violations of his fair trial and due process rights such as to render his imprisonment on all previous cases arbitrary.² He is now on trial for alleged sedition and *“conspiracy to collude with foreign forces”*, a vaguely-defined offence under the NSL that allows for its arbitrary application to legitimate acts of free speech.³ If convicted, Mr Lai faces life imprisonment – which in reality, given his age, means a death sentence. Given the near-100% conviction rate under the NSL, and Mr Lai’s profile, we expect the worst.
9. Mr Lai’s sedition and NSL trial began on 18th December 2023, after much delay. Originally slated to last 80 days, his trial is still ongoing and has been subject to further lengthy and unreasonable delay. There was a lengthy adjournment to the trial in 2024, resulting in a 6-month hiatus in evidence being heard. The trial resumed on 18th November 2024 when Mr Lai took the stand. Mr Lai gave his testimony for 52 days, including a lengthy period under

¹ WGAD [Opinion no. 34/2024 concerning Mr Jimmy Lai Chee-ying \(Hong Kong/China\)](#), 26th September 2024, §100.

² Ibid, §§107 and 112.

³ Ibid, §§103-105.

cross-examination, until 6th March 2025. The trial has been adjourned again until 14th August 2025, when the prosecution is expected to present its closing argument. The prosecution case makes abundantly clear, as found by the WGAD,⁴ that Mr Lai is being accused of engaging in legitimate political debate and discussion with politicians and in his newspaper, *Apple Daily*, of raising human rights concerns, and of calling for accountability for human rights violations in Hong Kong. The US Government and US lawmakers are front and centre of the Prosecution’s case: engaging with US politicians and officials to discuss human rights concerns and the destruction of the rule of law in Hong Kong is presented as criminal conduct - “*collusion with foreign forces.*”

10. In addition to the serious issues raised by Mr Lai’s case that are directly relevant to his ongoing imprisonment in violation of his rights and the suppression of rights and freedoms in Hong Kong, this case also raises issues that are directly relevant to the security and safety of individuals outside Hong Kong, including in the US, the UK, Australia, Canada and EU Member States, and persons travelling internationally. The Hong Kong authorities have responded to those advocating on Mr Lai’s behalf, including me and my team of international lawyers, and his son, Sebastien, with acts of intimidation and threats of prosecution, as highlighted in the Secretary General’s Annual Reports on Reprisals, 2023 and 2024.⁵ This response is emblematic of the increasing attempt by China to intimidate and threaten lawyers,⁶ pro-democracy activists, parliamentarians, and others advocating on Mr Lai’s and others’ behalf and for the Chinese and Hong Kong authorities to be held accountable for serious human rights violations committed by them.
11. The destruction of fundamental rights and freedoms in Hong Kong under the guise of protecting national security was further entrenched on 19th March 2024 by the adoption of the Safeguarding Nationals Security Bill, legislation enacted pursuant to Article 23 of the Basic Law (“**Article 23 legislation**”). The adoption of the legislation, that includes vaguely defined provisions regarding “sedition”, “state secrets”, and “collusion with an external force”⁷, prompted a chorus of criticism from States, including the US with respect to its “*far reaching implications*” for the rule of law and the protection of rights of freedoms of all people living and working there. The UN High Commissioner for Human Rights⁸, the US,⁹ the European Union,¹⁰ and Canada¹¹ have all raised grave concerns about potential for enforcement overreach, the failure of the new law to safeguard human rights and freedoms enshrined in the Basic Law, and the fundamental conflict between respect for

⁴ Ibid, §115.

⁵ As highlighted by the UN Secretary General’s Annual Reports on Reprisals, 2023 (A/HRC/54/61) and 2024 (A/HRC/57/60).

⁶ See for example, Fiona Hamilton, ‘Jimmy Lai lawyers face threats from China for defending Hong Kong mogul’, *The Times*, 30th September 2023; <https://www.theguardian.com/world/2025/feb/15/uk-based-lawyers-for-hong-kong-activist-jimmy-lai-targeted-by-chinese-state>, *The Guardian*, 15th February 2025.

⁷ Pursuant to paragraph 6 of the legislation, for the purposes of the legislation, “external force” means a government of a foreign country; the authority of an external place, a political party in an external place; any other organisation in an external place that pursues political ends; an international organisation; a related entity of a government, political party or organisation; a related individual of a government, authority, political party, organisation or entity.

⁸ OHCHR, Press Release, ‘[Rushed adoption of national security bill a regressive step for human rights in Hong Kong – UN Human Rights Chief](#)’, 19th March 2024.

⁹ See, for example, US Department of State, Press statement, ‘[Hong Kong’s New National Security Law](#)’, 22nd March 2024.

¹⁰ Council of the European Union, Press Release, ‘[Hong Kong: Statement by the High Representative on behalf of the European Union on the adoption of new national security legislation](#)’, 19th March 2024.

¹¹ Foreign, Commonwealth and Development Office, Press release, ‘[Hong Kong national security legislation: UK statement](#)’, 19th March 2024.

the rule of law on the one hand and the implementation of the Chinese security apparatus on the other.

INHUMANE CONDITIONS

12. The conditions of Mr Lai's detention, his age and his health make his case exceptionally urgent. He must be released before it is too late. Mr Lai is now 77 years old, and will turn 78 later this year. A diabetic with associated symptoms and other age-related health complications, Mr Lai is denied natural sunlight and incarcerated in a tiny airless cell for over 23 hours per day in a climate of extreme heat and humidity.
13. He has already spent almost half a decade in prison, in prolonged solitary confinement, in inhuman conditions. This in itself poses a threat to his life, as does the long sentence he will face if – as is inevitable - he is convicted under the NSL.

KEY CONCERNS

14. Mr Lai's case raises several key concerns regarding the violation of his fundamental rights and freedoms, as found by the WGAD, including the rights to freedom of expression, peaceful assembly, a fair trial, and the prohibitions of arbitrary detention and of torture, cruel and inhuman treatment, and the treatment of elderly persons in prison. Moreover, Mr Lai's case is emblematic of the rapid destruction of the rule of law in Hong Kong since the NSL was enacted in 2020, and now the “home grown” Article 23 legislation, and the misuse of criminal laws to silence voices critical of the Chinese Communist Party, to silence calls for accountability for human rights violations, and to suppress any discussion or debate of political ideas in Hong Kong.
 - Mr Lai has been detained in prolonged solitary confinement for over four years, since December 2020, raising serious concerns for his health and wellbeing.
 - As found by the WGAD, Mr Lai has been arbitrarily detained in relation to all the cases he has faced since 2020.¹²
 - Mr Lai has already been prosecuted and sentenced to lengthy sentences of imprisonment for his peaceful participation in pro-democracy protests in violation of his rights to freedom of expression and peaceful assembly, and to a fair trial.
 - In an unprecedented case, he has been convicted and sentenced to nearly six years' imprisonment on spurious allegations of fraud said to arise out of the breach of a commercial lease – the first time a landlord and tenant dispute has been the subject of a criminal prosecution in Hong Kong. His conviction and sentence were condemned by the UK Foreign, Commonwealth and Development Office¹³ and

¹² WGAD [Opinion no. 34/2024 concerning Mr Jimmy Lai Chee-ying \(Hong Kong/China\)](#), 26th September 2024, §119.

¹³ <https://x.com/annietrev/status/1601958104463204353?s=20&t=1xDoFw9v4gdtDy0Mqyvi4g>

the US Department of State,¹⁴ among others, and the WGAD has found that the trial, as with all the trials he has faced, was manifestly unfair and his resulting imprisonment arbitrary.¹⁵ His appeal against conviction was heard on 14th and 15th January 2025. The appeal court's judgment is pending, expected six months from the date of the hearing.

- Mr Lai is now being prosecuted for alleged sedition and alleged conspiracy to collude with foreign forces under the NSL for his journalism and his pro-democracy activities, in clear violation of his rights to freedom of expression, freedom of association, and to a fair trial.
- There is publicly available credible evidence that the testimony of a key prosecution witness in the case against Mr Lai, Andy Li, has been obtained by torture, as raised by the UN Special Rapporteur on Torture with China, on 31st January 2024.¹⁶ China has so far failed to respond to the Special Rapporteur's concerns.
- China has failed to allay concerns, as raised with China by WGAD and four UN Special Rapporteurs in a joint communication concerning Mr Lai's case sent on 17th March 2023,¹⁷ that engagement with the UN could amount to a crime under the NSL. In its response to that concern, China stated “[w]hether a particular act constitutes an offence would depend on the facts and circumstances of each case, and hence over-generalisation is neither possible nor appropriate”.¹⁸ No clarity has been provided as to how criminal sanction may be avoided. China's position is alarming, and is clearly threatening to any individual inside or outside Hong Kong, or mainland China, who seeks to engage the UN human rights mechanisms on their own or on others' behalf.

US AND UK GOVERNMENTS

15. Multiple governments, Parliaments and international bodies have now called for Jimmy Lai's immediate and unconditional release, including the US Government, the UK Government, the Australian Government, the Canadian Parliament, the European Parliament, the UN WGAD, five UN Special Rapporteurs, and Roman Catholic leaders. The international consensus is clear on what should happen. The question now is how to ensure it does happen, before it is too late. How can the principle be converted to practice?
16. The US and UK Governments are key to securing Jimmy Lai's release. He is a British citizen and his case is also intimately connected to the US, in many ways – including that many of his investors and his executives are US citizens, and the NSL prosecution has weaponised his links to the US, Congress and the US Government against him.

¹⁴ https://twitter.com/StateDeptSpox/status/1601638664697942018?s=20&t=xx0iJWcEVA_SufPElwWQ4w; <https://www.state.gov/jimmy-lai-fraud-case-verdict/>

¹⁵ WGAD Opinion no. 34/2024 concerning Mr Jimmy Lai Chee-ying (Hong Kong/China), 26th September 2024, §§82 & 112.

¹⁶ OHCHR, Special Procedures, Press release, ‘Hong Kong SAR: UN expert warns against admission of evidence, allegedly secured through torture, in Jimmy Lai case’, 31st January 2024.

¹⁷ Joint Communication to China, AL CHN/1 2023, 17th March 2023.

¹⁸ China's reply to Joint Communication, CH/HR/2023/46, 1st May 2023, at §56.

17. Mr Lai's case has been and continues to be a priority for the US Government. The various prosecutions, verdicts and sentences have been repeatedly condemned by the United States' Government¹⁹, politicians from every stripe of each side, and civil society. In response to Mr Lai's sentence in unfounded fraud proceedings (based on alleged violation of a commercial lease) a spokesperson for the State Department, stated that, "*the United States condemns the grossly unjust outcome of Jimmy Lai's latest trial sentencing. By any objective measure, this result is neither fair nor just*", and called upon China to respect freedom of expression, including for the press, in Hong Kong.²⁰ The US Government has described the charges against Mr Lai as spurious and has further expressed its ongoing deep concern, "*about the deterioration in the protection for human rights and fundamental freedoms and the systematic dismantling of Hong Kong's autonomy under the National Security Law (NSL)*", and the efforts by the Hong Kong authorities to use the NSL to "*suppress independent media, to silence dissenting views, and to silence freedom of speech.*"²¹ US President Trump has repeatedly expressed his commitment to securing Mr Lai's release²².
18. UK Foreign Secretary David Lammy and members and officials at every level of the UK government²³ continue to raise Mr Lai's case, including during the July 2025 meeting between the Foreign Secretary and his Chinese counterpart Wang Yi²⁴. The Foreign Secretary has made clear in Parliament the UK government's view that it would be "*a catastrophe*" were China to allow Lai to die in jail²⁵.
19. Mr Lai has been the victim of targeted judicial and prosecutorial harassment and had his key assets in Hong Kong dismantled and expropriated. Mr Lai's trial marks yet another milestone on the grim journey by which Hong Kong has travelled from relative freedom and prosperity to authoritarianism and decline. The bold revelations by the prosecution have confirmed that Mr Lai is indeed being prosecuted and will likely be condemned to life imprisonment for his journalism, for discussing political ideas, and for calling for accountability of individuals responsible for human rights violations. The credible information that a key prosecution witness, Andy Li's, evidence has been procured by torture underlines the cruel lengths the Hong Kong and Chinese authorities will go to, to secure Mr Lai's conviction.
20. This case is now extremely urgent. Mr Lai risks dying in prison. Now is the time to turn the call for his release into action to ensure that Mr Lai is released and brought home before it is too late.

¹⁹ US Department of State, Press Release, '[Trial of Jimmy Lai Under the Hong Kong National Security Law](#)', 17th December 2023; State Department: Democracy, Human Rights & Labor, <https://twitter.com/StateDRL/status/1706700113907712198>, 26th September 2023.

²⁰ See https://twitter.com/StateDeptSpox/status/1601638664697942018?s=20&t=xx0iJWcEVA_SufPE1wWQ4w

²¹ See <https://www.state.gov/jimmy-lais-fraud-case-verdict/>

²² <https://hongkongfp.com/2025/05/09/us-president-trump-to-raise-hong-kongs-jailed-tycoon-jimmy-lais-case-in-china-trade-talks/>

²³ From Prime Minister Starmer down: <https://www.independent.co.uk/news/uk/politics/keir-starmer-xi-jinping-meeting-g20-b2648912.html>

²⁴ <https://x.com/DavidLammy/status/1943718892045738364>

²⁵ <https://www.youtube.com/live/PVLgxTC2w00?t=7009s>

21. At a time when world leaders are looking to build bridges, particularly economic bridges, with China it is essential that Mr Lai's case is not forgotten. As attention turns to the US and UK relationships with China, it is essential that Jimmy Lai's case is resolved before any talk of normalisation is allowed to progress. Mr Lai must be released before China is taken seriously as a credible negotiating partner.

Caoilfhionn Gallagher KC
22nd July 2025