



Human Rights  
Institute

## INTERNATIONAL BAR ASSOCIATION'S HUMAN RIGHTS INSTITUTE

Wednesday 14 August 2024

### **IBAHRI Director, Lady Helena Kennedy of the Shaws LT KC on UK judge Lord Neuberger, Hong Kong and the Rule of Law**

#### **STATEMENT**

---

The **High Level Panel of Legal Experts on Media Freedom** is an independent entity. They are the independent advisory body to the **Media Freedom Coalition of States**, and I am one of the senior lawyers who is a member of the Panel. The **International Bar Association's Human Rights Institute** serves as **Secretariat**. Earlier in the Summer, **Lord Neuberger** issued a statement to the Media Freedom Coalition:

*"In view of my continuing role as an Overseas Non-Permanent Judge of the Hong Kong Court of Final Appeal, I am in the process of considering my position as Chair of the High Level Panel of Legal Experts on Media Freedom, in consultation with my Deputy Chairs. I will issue a statement with my decision as soon as practicable. In the meantime, the High Level Panel will continue its vital work within the Media Freedom Coalition, ably led by its Deputy Chairs."*

My view is that the law in Hong Kong is being weaponised and used against the pro-Democracy movement. I do not think UK judges should sit on the court, and nor should UK lawyers participate in prosecuting cases, and I have made that view very clear.

Most democratic nations allow peaceful protest but they often require permission for demonstrations, as in Hong Kong. The case in question related to participation in a protest where permits had been refused. In my experience, overturning such an executive decision – which involves an assessment of risk of public disorder even if not by those arrested – is something courts everywhere are loath to do and is not something they are normally equipped to do. So, I do not think the result is very surprising, although very disappointing.

Remember, this is not the national security case against Jimmy Lai which continues before another court. I have two objections to the convictions in this particular case. I think the decision to refuse a permit was discriminatory and disproportionate. I was also surprised that no appeal was allowed against the sentences. Martin Lee KC and Margaret Ng were given prison sentences and although suspended I think that was excessive for their participation in a candlelit vigil. Jimmy Lai – the media owner – was given an immediate prison sentence. These are all people in their seventies. Why prison? And why the distinction made of Jimmy? The whole approach was excessive.

A retired judge is free to accept whatever roles they are invited to take. Lord Neuberger has decided to continue in his Hong Kong role as he wishes to support the Hong Kong judiciary in their efforts to preserve the Rule of Law. Personally, I think that line in the sand was passed some time ago and IBAHRI has taken the stance that lawyers and judges should take no part in cases in Hong Kong given the assault on the Rule of Law. However, we do take the view that Lord Neuberger is a person of the highest integrity and is acting out of the best of intentions.'

**Lady Helena Kennedy of the Shaws LT KC**

Director

IBAHRI