ACTU Level 4/365 Queen Street, Melbourne Victoria 3000
p +61 3 9664 7333 w actu.org.au australianunions.org.au
President Michele O'Neil Secretary Sally McManus

John Lee
Chief Executive
Hong Kong Special Administrative Region, China
Email: ceo@ceo.gov.hk
Copied: Hong Kong Economic and Trade Office Australia (Enquiry@hketosydney.gov.hk);
Embassy of the People's Republic of China in Australia (chinaemb_au@mfa.gov.cn)

26 October 2026

The Australian Council of Trade Unions denounces, with deep concern, the conviction of Brother Lee Cheuk-yan, the founder of the Hong Kong Confederation of Trade Unions (HKCTU), on one count of incitement to subversion under Articles 22 and 23 of the National Security Law (NSL) in Hong Kong.

Brother Lee was convicted together with two others, Chow Hang-tung and Ho Chun-yan, by the High Court of the Hong Kong Special Administrative Region (HKSAR) on 21 August 2026.

We have read the reasoning of the Court and are alarmed that Brother Lee's conviction appears to be based solely on his exercise of the right to freedom of expression through speeches and campaigns conveying his political views on the democratic future of China and his home, Hong Kong.

It is instructive that the expressions of Brother Lee and the other defendants were not judged to be violent or to call upon others to use violence against the State, or against those who currently exercise power in the name of the State. There was no evidence before the Court that Brother Lee and the other defendants had expressly called for the overthrow or undermining of the State or of those who exercise power in its name.

The offence of incitement under Articles 22 and 23 of the NSL was interpreted by the Hong Kong Court in a manner that criminalises thought, conscience and speech without any link to a harm whether to an individual or society, such as violence, the threat of violence or the use of force. In effect, under the Court's application of Articles 22 and 23 of the NSL, it is enough to hold a political view different from that held by the established political system for one to fall foul of the law.

Brother Lee was therefore convicted for exercising the fundamental freedoms of expression, peaceful assembly and association in order to express peacefully his political opinion on ending one-party dictatorship in China. As Lee testified, he believes that "end[ing] one-party dictatorship", the construction of civil society and, eventually, a democratic political structure in China are not incompatible with the Chinese Constitution, which stipulates the protection of political rights, civil liberties, and the principle of multiparty cooperation. In the Court's view, vigorously and passionately criticising the dictatorship of the Chinese Communist Party or the enactment of the NSL amounts to hostility or hatred. The Court never explored the justification for such interference in his protected constitutional and human rights, nor did it test whether such criticism could be motivated by patriotism and love for one's country.

Under the Court's ruling, criticising the functioning of the Constitution and/or its essential structures, or persuading one's fellow citizens to envision a better-functioning constitutional order, subject to the sovereignty of the people, is itself a harmful to society and therefore a crime.

This ruling therefore disproportionately suppresses and criminalises political opinion and cannot be legally or morally justified. The real danger of the NSL, that is, its use to suppress civic criticism of the government of China and the HKSAR authorities, is evident in this ruling. This affirms that the NSL is detrimental to an environment in which human and labour rights and civil liberties, including trade union rights, are respected and exercised.

China is a permanent member of the United Nations, one of whose interconnected pillars is human rights. China has also been a member of the ILO since 1919. The ILO Constitution affirms that *"freedom of expression and of association are essential to sustained progress".*

In addition to the protection of freedom of expression and association, the ILO's fundamental values and conventions require Member States to uphold the principle that labour is not a commodity and to protect, in that regard, freedom from political coercion, including freedom from the suppression of political views and of views ideologically opposed to the established political, social or economic system.

Therefore, criminalising expression and assembly without having to justify such interference in the context of broader constitutional protections and international human and labour rights obligations, freely undertaken by China, is deeply concerning. This is particularly so where the conviction has nothing to do with objective harm or the use of force, and there is no direct evidence that Brother Lee's speech, or that of Chow Hang-tung and the Hong Kong Alliance, called for violence or unconstitutional conduct or overthrow whatsoever.

It is in the context of such concerns regarding the use of the NSL that, in 2021, the ILO Committee on the Application of Standards (CAS) called on the HKSAR authorities to, among other measures, *"keep under review, in consultation with the social partners, the application of the National Security Law so that the rights of workers, employers and their organizations under the Convention are fully protected",*

These concerns also underpinned the 2023 observations of the UN Committee on Economic, Social and Cultural Rights on *"... reports that domestic laws and regulations, including the Trade Union Ordinance, the Public Order Ordinance, and the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020), are implemented in such a way as to hamper the exercise of the right to freely form trade unions guaranteed in the Covenant (art. 8)."* The Committee also called on "... Hong Kong, China, [to] review the said laws and ordinances and their implementation, with a view to enabling the exercise of the right to freely form trade unions".

In our view, as revealed by the 2026 ITUC Global Rights Index, the prosecution and conviction of Brother Lee and the others form part of a trend of targeting trade unionists and other human rights defenders to silence calls for democracy and respect for civil liberties, amid the rise of authoritarianism and efforts to disregard international human rights obligations.

Freedom of expression, association and peaceful assembly, as exercised by Brother Lee, lie at the heart of legitimate trade union and civil society activities and programmes. We are therefore deeply concerned that this ruling places our legitimate work, and that of all our brothers and sisters across the world, in danger.

The Australian Council of Trade Unions, in solidarity with the independent trade union movement around the world, rejects the criminalisation of Lee Cheuk-yan and Chow Hang-tung for the peaceful exercise of fundamental freedoms. The Australian Council of Trade Unions reiterates its call on the Hong Kong and Chinese authorities to release them and to repeal the NSL in line with their international obligations.

We stand in solidarity with Brother Lee and the other defendants.



Michele O’Neil
President