

ACRHK Policy Brief No. 01/2026

Punished Twice at the Border

Japan's Treatment of Hongkongers Prosecuted for Political Reasons,
and a Proposal for a G7 Political-Prosecution Verification Mechanism

Assembly of Citizens' Representatives, Hong Kong — Asia-Pacific Affairs Committee
24th October 2026



Online: <https://acrhk.org/?p=460>

Executive Summary

The problem

Since 2024, ACRHK has recorded at least five cases in which Hongkongers prosecuted or imprisoned in connection with Hong Kong's democracy movements since 2014 or the National Security Law (NSL) met serious obstacles at Japan's border:

- **Haneda, June 2026:** Mr Jimmy Sham (岑子杰), released after serving his "Hong Kong 47" sentence, was examined for about 20 hours.
- **Narita, 2025 and 2026:** two people released after serving NSL sentences were held for under one hour and for more than ten hours.
- **Kansai, 2024:** a person with a 2019 "rioting" case was advised to withdraw the landing application, did so and returned to Hong Kong, having earlier been admitted at another Japanese airport.
- **2024, visa application:** a person imprisoned for a pre-2019 case was made to apply and pay for a visa and given three weeks, where ordinary Hongkongers receive 90 days visa-free at no charge.

The outcome depends on the airport and the officer. No officer at Haneda, Narita or Kansai has a procedure for recognising a political prosecution as such, so a sentence for peaceful political activity is treated as an ordinary criminal record. The result is a second, de facto punishment.

Japanese law already draws the line

Article 5(1)(iv) of the Immigration Control and Refugee Recognition Act bars entry to persons sentenced to one year or more, but adds: 「ただし、政治犯罪により刑に処せられた者は、この限りでない。」 (persons sentenced for a political offence are excepted). The Act of Extradition (Art. 2) and the Immigration Control Act's information-sharing rule (Art. 61-8(3)(i)) draw the same distinction. What is missing is a procedure that applies it before the traveller reaches the counter. According to The Collective, an officer told Mr Sham the policy was not to admit anyone who had served more than a year. That suggests the exception was not considered at the counter.

Japan has also condemned these prosecutions. In the G7 Foreign Ministers' statement of December 2025, Japan joined in calling on the Hong Kong authorities to "end such prosecutions".

The United Kingdom: an ad-hoc fix, not a system

Wu Chi-wai (胡志偉), former legislator, former Democratic Party chair and a "Hong Kong 47" defendant, was held at Heathrow for about ten hours in July 2026 and initially told he would be removed. According to former legislator Lee Wing-tat, the British Consulate-General in Hong Kong had been notified in advance. Even so, on Mr Lee's account, it took about seven days, and an intervention through Lord Alton in the House of Lords, before a Home Office minister confirmed that Mr Wu would not be removed. A remedy that depends on parliamentary intervention in each case cannot serve the many political prisoners due for release through 2026–27.

The proposal: a Political-Prosecution Verification Mechanism (PPVM)

1. **One-time verification.** Applicants submit court documents to any embassy, consulate or online portal of a participating state. The state's own authorities decide whether the case falls within the political-offence exception.
2. **Certification recorded at the border.** A certificate is valid for a fixed period (for example, five years) or until a new conviction, whichever comes first. Certified persons enter on the same terms as anyone with the same passport: no visa, no fee, no passport retention, no shortened stay.
3. **Carried into electronic travel authorisation.** Certification must transfer automatically into Japan's JESTA (from FY2028) and equivalent systems, so that boarding is never refused on a certified conviction alone.
4. **Protection of applicants.** No records may be demanded from Hong Kong authorities, and no data shared with them. Applications must be possible from outside Hong Kong.
5. **Limits.** Convictions for violence against persons stay under ordinary examination. The population is finite: official Hong Kong and PRC figures indicate a scale of about 2,800 people convicted or bound over, a figure that overstates those affected.
6. **G7 mutual recognition.** A determination by one G7 member should be accepted by the others.

Requests

- **Japan:** establish the PPVM; end visa requirements, fees, passport retention and shortened stays for certified persons; publish how JESTA will treat them before it begins.
- **United Kingdom:** make advance notification by a mission a formal step with legal effect, including under the UK ETA.
- **G7:** agree a common indicative list and mutual recognition, as follow-through on the December 2025 call to "end such prosecutions".

This proposal does not ask any state to give up control of its borders. It asks states to apply, through a clear procedure, a distinction their own laws already make.

To: the Minister of Justice, the Commissioner of the Immigration Services Agency (ISA) and the Minister for Foreign Affairs of Japan; the Home Secretary and the Foreign Secretary of the United Kingdom; and the governments of the other G7 members.

Asia-Pacific Affairs Committee, Assembly of Citizens' Representatives, Hong Kong (ACRHK)

Introduction

Since 2024, ACRHK has recorded at least five cases in which Hongkongers prosecuted or imprisoned in connection with Hong Kong's democracy movements since 2014 or the National Security Law (NSL) met serious obstacles at Japan's border. These range from holds of under one hour, more than ten hours and about twenty hours at Narita and Haneda, to a recommendation at Kansai that the traveller withdraw the landing application, to a visa requirement with a stay of three weeks instead of the 90 days ordinary Hongkongers receive.

None was formally refused landing. Yet one traveller, advised (as the traveller recalls) that withdrawing would avoid harming future applications, withdrew and returned to Hong Kong, although the same person had earlier been admitted at another Japanese airport. Taken together, the cases show a pattern. Japan's border system treats a sentence handed down for the peaceful exercise of civil and political rights as an ordinary criminal record. The result is a second, de facto punishment, imposed by a government that has itself condemned prosecutions of this kind.

Japanese law already draws the line ACRHK is asking for. Article 5(1)(iv) of the Immigration Control and Refugee Recognition Act bars entry to persons sentenced to one year or more of imprisonment, but adds: 「ただし、政治犯罪により刑に処せられた者は、この限りでない。」 That is, persons sentenced for a political offence are excepted. What is missing is a procedure for deciding, once and in advance, that a person's sentence falls within that exception.

This brief proposes such a procedure for Japan. It asks the United Kingdom to turn the ad-hoc escalation that eventually resolved Wu Chi-wai's case into a standing process. It also proposes that G7 governments recognise one another's determinations, including within electronic travel authorisation systems such as Japan's JESTA (scheduled for FY2028).

This brief builds on ACRHK's Letter of Request of June 2026. It widens that request in three ways: it covers prosecutions from 2014 onward, not only from 2019; it addresses visa fees and the retention of passports; and it turns the June call on other democracies into a concrete request for G7 mutual recognition.

1. The cases recorded by ACRHK in Japan

Only Case A has been publicly reported, and the person concerned has spoken about it in public himself. ACRHK has anonymised Cases B–E to protect the people concerned and their families in Hong Kong.

	When / where	Prosecution background	What happened at the border
A	16 June 2026, Haneda	Mr Jimmy Sham (岑子杰). "Hong Kong	About 20 hours of examination. According to the Sankei Shimbun, as reported by Taiwan's United Daily News (29 June 2026), officers told him that his sentence of

When / where	Prosecution background	What happened at the border
(HND)	47" NSL case; arrested January 2021, released May 2025	one year or more required a special examination that could take three to four days, and they questioned him through the night. The family members travelling with him were admitted first. His passport was returned around noon the next day, and he was admitted on condition that he leave by a fixed date.
B 2025, Narita (NRT)	NSL case; sentence served and released	Held for under 1 hour
C 2026, Narita (NRT)	NSL case; sentence served and released	Held for more than 10 hours
D 2024, Kansai (KIX)	"Rioting" case (2019)	An immigration officer recommended withdrawing the landing application so that, as the traveller recalls being told, future applications would not be affected. The traveller withdrew and returned to Hong Kong. The same person had previously been admitted at another Japanese airport .
E 2024, visa application at a Japanese mission	Imprisoned for a pre-2019 democracy-movement case	Travelling for a short visit at the invitation of a Japanese host, with supporting letters. A short, non-work visit like this normally needs no prior application. Was nonetheless required to apply for a visa , submitted the full court documents, paid the visa fee , surrendered the passport during processing, and was granted three weeks , against the 90 days visa-free that ordinary Hongkongers receive at no charge.

Mr Sham has publicly described the frontline officers as professional and considerate. ACRHK does not criticise individual officers. Our concern is the design of the system: no officer at Haneda, Narita or Kansai has any procedure for recognising a political prosecution as such. Each traveller is therefore examined afresh at every arrival, and the outcome depends on the airport and the officer. Cases B and C, both released after serving NSL sentences, were held at the same airport for under one hour and for more than ten hours respectively. Case D shows the same inconsistency most clearly: the same person, with the same record, was admitted at one Japanese airport and advised to withdraw at another.

The case has drawn attention in Japan's press. The Sankei Shimbun first reported in June 2026 that Mr Sham had been examined at Haneda for more than twenty hours (as relayed on 29 June 2026 by Taiwan's United Daily News and Hong Kong's The Collective). The Immigration Services Agency told the Sankei Shimbun that it could not respond to press inquiries about an individual case. According to The Collective, Mr Sham was told by an officer that the policy was not to admit anyone who had served more than a year in prison, and that the examination might take three or four days. That account suggests that the political-offence exception in Article 5(1)(iv) was not considered at the counter. Mr Sham also asked Japan to create a clear system under which a person with a political criminal record registers once at a consulate and can thereafter enter visa-free, which matches the

core of this proposal. Later, on Saturday 24 October 2026, Kyodo News (carried by the Tokyo Shimbun and other papers) reported Mr Sham's appeal: "Political prisoners are different from ordinary criminals. I want the way examinations are conducted to be improved." Kyodo reported that experts are urging the Japanese government to discuss the treatment of political prisoners so that such cases do not recur. It also quoted a crisis-management specialist, Isao Itabashi of the Council for Public Policy, who considered the 20-hour hold reasonable because immigration needed to weigh whether Mr Sham's entry might develop into a diplomatic problem. (Mr Itabashi heads the institute's research centre.) That defence makes ACRHK's point. Whether admitting a released political prisoner raises diplomatic questions is a matter of government policy. It should be settled once, in advance, by the ministries responsible, not left to an examining officer working through the night at an airport counter.

The burden falls unequally. An ordinary Hongkonger with an HKSAR or BN(O) passport may enter Japan without a visa for up to 90 days, with no fee and no surrender of the passport. Case E paid for a visa, went without a passport for the processing period, and received three weeks where everyone else receives 90 days. The only reason was a conviction arising from Hong Kong's democracy movement: a prosecution of the kind that Japan, with its G7 partners, has publicly called on Hong Kong to end.

2. Why this is a second punishment Japan's own law does not require

Japanese law already excepts political offences. The one-year-sentence bar in Article 5(1)(iv) carries an express exception for persons "sentenced for a political offence". The same distinction runs through Japanese law:

- The Act of Extradition (逃亡犯罪人引渡法), Art. 2(i)–(ii), forbids extradition for a political offence, or where a request aims to try or punish a political offence.
- Immigration Control Act Art. 61-8(3)(i) bars the ISA from consenting to the use of information it has shared with a foreign immigration authority to investigate or try a political offence.
- Where doubt remains, Art. 12(1)(iii) allows the Minister of Justice to grant special landing permission.

Japan does not lack the legal concept. It lacks a procedure that applies the concept *before* a traveller reaches the examination counter.

Japan has condemned NSL prosecutions. On 17 December 2025 (18 December, Japan time), Japan joined the other G7 foreign ministers and the EU High Representative in condemning the prosecution of Jimmy Lai under the NSL (G7 Foreign Ministers' Statement on the Jimmy Lai verdict in Hong Kong; released by Japan's Ministry of Foreign Affairs on 18 December 2025). They noted that the Basic Law guarantees freedom of expression, opinion and the press, and they stated: "We call on the Hong Kong authorities to end such prosecutions." The "Hong Kong 47" prosecution rests on the same statute, and the 2014 and 2019 public-order prosecutions punished participation in the same democracy movement whose suppression the statement addresses. It is inconsistent to call on Hong Kong to end such prosecutions while treating the sentences they produce as grounds for suspicion at Japan's own border.

The disadvantage compounds the original injustice. The distinction between political and ordinary crime is settled in international instruments: UDHR Art. 14(2) and Art. 1F(b) of the 1951

Refugee Convention both rely on it, even though they concern asylum rather than entry. The prosecutions at issue punished assembly, expression, association and participation in an election primary, rights protected by ICCPR Arts. 19, 21, 22 and 25. They apply to Hong Kong through Basic Law Art. 39 and the Hong Kong Bill of Rights Ordinance. When a released political prisoner faces prolonged examination, a visa demand or a shortened stay on every journey, the original punishment is repeated each time.

3. The United Kingdom: an ad-hoc fix, not a system

The United Kingdom shows that the problem is not unique to Japan, and that it can be solved.

Wu Chi-wai (胡志偉), a former Legislative Council member and former chair of the Democratic Party, also a “Hong Kong 47” defendant, completed his 4-year-5-month sentence and was released on 30 June 2026. Around 23 July 2026 he was held at Heathrow for about ten hours and was initially told he would be removed. He was ultimately admitted and has applied for asylum. The Home Office described the matter as an administrative issue with documentation, unrelated to his status in Hong Kong. (HKFP, 23 July 2026.)

Lee Wing-tat (李永達), likewise a former Legislative Council member and former chair of the Democratic Party, who was directly involved in the effort to resolve the case, has given a first-hand account in a public post (about 29 July 2026). ACRHK relies on it as testimonial evidence:

- Before Mr Wu travelled, a senior official at the British Consulate-General in Hong Kong had been informed, and the Consulate-General notified Heathrow.
- Border officers nonetheless saw an alert on their system, questioned Mr Wu at length and issued a seven-day removal order.
- Resolution took about seven days. It came only after Hongkongers in the UK and members of the Inter-Parliamentary Alliance on China contacted Lord Alton (David Alton, Baron Alton of Liverpool, a crossbench life peer in the House of Lords), who raised the case with a Home Office minister. The minister confirmed that Mr Wu would not be removed.
- In Mr Lee’s assessment, the Consulate-General’s notification served as advice and carried no instruction. The UK government has not commented on this point.

The lesson is plain. On Mr Lee’s account, the case had already reached the British Consulate-General before Mr Wu travelled, and, as a former legislator and party chair, he was among the most prominent NSL defendants. Even so, the decision at the gate went against him. As with Mr Sham at Haneda, the outcome turned on the judgement of a frontline officer, and that judgement sat uneasily with the stated position of the officer’s own government. Such outcomes carry a diplomatic cost: they risk undermining governments’ standing with Hongkongers and with the international community, which hears these governments condemn political prosecutions and then see the people prosecuted stopped at their borders. Prior notice from a diplomatic mission, without a defined legal effect, did not protect Mr Wu. What protected him was political escalation that depended on personal networks and parliamentary access, and that took a week. The “Hong Kong 47” defendants and other political prisoners will continue to be released through 2026–27. A remedy that depends on parliamentary intervention in each case cannot serve them all.

4. Proposal: a Political-Prosecution Verification Mechanism (PPVM)

ACRHK proposes that Japan, the United Kingdom and the other G7 governments each establish a verification mechanism with the following elements, and recognise one another's results.

4.1 Scope. The mechanism covers Hongkongers prosecuted, convicted or imprisoned in connection with Hong Kong's democracy movements and their aftermath, including:

- the 2014 Umbrella Movement;
- the 2016 Mong Kok unrest;
- the 2019 anti-extradition-bill movement;
- prosecutions under the NSL (2020), the Safeguarding National Security Ordinance (2024) and the colonial-era sedition offences;
- public-order charges ("rioting", unlawful assembly and related offences) arising from political events.

Governments should publish an indicative list of these events and offences. That gives travellers and officers a common reference while leaving room for individual cases outside the list.

4.2 Verification and certification. An applicant may apply to *any* embassy or consulate of the participating state, or online. The applicant submits:

- the judgment or reasons for verdict;
- the charge sheet;
- sentencing remarks;
- where available, letters of support from recognised civil-society or legal organisations.

The mission, with the competent ministry (in Japan, the ISA together with the Ministry of Foreign Affairs), decides whether the prosecution falls within the political-offence exception. A positive decision is issued as a certificate and recorded in the border-control system, so that the examining officer sees a confirmed political-offence determination rather than an unexplained conviction.

4.3 Effect. A certified person is admitted on the same terms as any holder of the same passport:

- in Japan, visa-free entry for up to 90 days on an HKSAR or BN(O) passport;
- no visa requirement, no fee, no retention of the passport and no shortened period of stay.

If a visa is still needed while the mechanism is set up, it should be issued gratis, quickly and with the standard period of stay.

4.4 Validity. The case itself is verified once, as in ACRHK's June 2026 request. The resulting certificate is valid for a fixed period (for example, five years) or until the holder acquires a new conviction, whichever comes first. Renewal requires only a declaration that nothing has changed, at no cost and without re-examining the case. A full review is triggered only by a new record.

4.5 Electronic travel authorisation.

- Japan's JESTA, enacted by amendment of the Immigration Control Act in 2026 and scheduled to begin in FY2028, will screen visa-exempt travellers before departure and oblige carriers to refuse boarding to anyone without authorisation. Without a safeguard, a political

prisoner could be stopped at the departure gate abroad, with no examining officer and no chance to explain.

- Certification must therefore carry over automatically into JESTA, so that a certified conviction can never by itself cause a denial.
- The same applies to the UK ETA, the US ESTA, Canada's eTA, Australia's ETA, the EU's ETIAS and Korea's K-ETA.

4.6 Protection of applicants.

- Applicants must never be required to obtain records from the Hong Kong Police or any HKSAR authority. Such a request would itself expose them and their families to risk.
- Information submitted must not be shared with the HKSAR or PRC authorities. Japanese law already applies this principle to information shared with foreign authorities (Art. 61-8(3)(i)).
- Applications should be possible from outside Hong Kong, without visiting a mission inside Hong Kong.

4.7 What the mechanism does not do.

- It does not make the political-offence exception automatic. Each case is decided by the participating state's own authorities, on documents the applicant supplies, applying the exception as that state's law interprets it. The indicative list creates a presumption, not a result.
- Convictions for violence against persons remain subject to ordinary examination, including "rioting" convictions where the court found personal violence. Certification addresses prosecutions that punished assembly, expression, association or electoral participation.
- The burden is limited, and each certificate replaces repeated multi-hour examinations at every arrival. Official figures published by the Hong Kong and PRC authorities indicate its scale (see the table below).

Scale of the population potentially affected (official or government-cited figures):

Movement / law		People convicted or otherwise bearing legal consequences	Cut-off date and source
2014 Umbrella Movement		169 (127 convicted, 42 bound over)	31 July 2021; HKSAR Government, LegCo reply LCQ17, 29 Sept 2021
2016 Mong Kok unrest		36 (all convicted)	31 July 2021; same source
2019 movement		2,422	End of April 2025; police figures as reported by HK01, 15 March 2026
2020 National Security Law		180 convicted	Early April 2026; PRC Ministry of State Security, as reported by China Daily HK, 30 June 2026
Indicative total		about 2,800	Sum of the rows above

These figures overstate the number of people affected. They include people who were bound over or given non-custodial sentences, and the categories may overlap, since a person can appear in more

than one row. Hong Kong publishes no consolidated count of how many were imprisoned. Prosecutions under the 2024 Safeguarding National Security Ordinance, and 2019 cases not yet concluded, will add to the total. Even so, the population is in the low thousands and is known: the authorities themselves have published it.

4.8 G7 mutual recognition.

- A determination made by one G7 member should be accepted by the others as strong evidence, with a shared indicative list and a contact point in each foreign ministry.
- For the United Kingdom specifically: the advance notification by a mission that Mr Lee describes should become a formal step with defined legal effect. A Consulate-General notification of a certified person should create an instruction in the Home Office's systems, not merely an alert.

5. Requests

1. **Japan:** establish the PPVM described in §4. Apply the existing political-offence exception in Art. 5(1)(iv) through it, and end visa requirements, fees, passport retention and shortened stays for certified persons.
2. **Japan:** before JESTA begins, publish how JESTA will treat certified persons, and guarantee that a certified political conviction cannot by itself lead to denial of authorisation or of boarding.
3. **United Kingdom:** turn the ad-hoc resolution of Mr Wu's case into a standing process with defined legal effect, and apply it equally under the UK ETA.
4. **G7:** build on the December 2025 statement by agreeing a common indicative list and mutual recognition of verification results. Treat this as practical follow-through on the G7's own call on the Hong Kong authorities to "end such prosecutions".
5. **All:** review Cases A–E and any similar cases, and ensure that those affected are not disadvantaged on future journeys. ACRHK will share the details of Cases B–E only with the consent of the person concerned, through a confidential channel, and never in any form that could reach the HKSAR authorities.

ACRHK's position remains that these prosecutions are unjust and that those imprisoned should never have been imprisoned. This proposal does not ask Japan or any other state to give up control of its borders. It asks them to apply, through a clear procedure, a distinction their own laws already make.

About ACRHK: the Assembly of Citizens' Representatives, Hong Kong is a civic assembly of Hongkongers. Its Asia-Pacific Affairs Committee leads its advocacy with Japan and the region.

Assembly of Citizens' Representatives, Hong Kong

香港公民代表會議

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Year 186 of the Founding of Hong Kong

24th October 2026

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