



Hong Kong Special Administrative Region
of the People's Republic of China

Q&As on legislation for the HKSAR to safeguard national security



-|- Foreword -|-

The Decision on establishing and improving the legal system and enforcement mechanisms for the Hong Kong Special Administrative Region (HKSAR) to safeguard national security adopted by the National People's Congress (NPC) on May 28, 2020 is an important step to fully implement the Basic Law, strengthen the implementation of "one country, two systems", maintain the long-term prosperity and stability of Hong Kong, help restore calm and peace to the daily lives of Hong Kong people and foster an environment to help society get back on track.

The national security law in Hong Kong will not undermine the legitimate rights and freedoms enjoyed and exercised by Hong Kong people, including those concerning speech, assembly, demonstration, communication and religion. Judicial independence and Hong Kong's core values will be fully protected. The law will not have any negative impact on the daily lives of the vast majority of law-abiding and peace-loving Hong Kong citizens.

The law targets acts and activities to split the country, subvert state power, organise and carry out terrorist activities and other behaviour that seriously endanger national security, as well as activities of foreign and external forces interfering in the affairs of the HKSAR. Most countries have national security laws and specific enforcement agencies. It is the duty of every responsible government to have such laws.

Upholding national security and the rule of law in Hong Kong is the cornerstone of continued prosperity and ensures the long-term stability and safety of Hong Kong. This will afford Hong Kong residents the peace of mind to live and work here, as well as a stable environment in which business and investment may flourish. It will boost both local and foreign investor confidence in the future of Hong Kong and brighten our economic prospects.

This booklet introduces the background of the legislation, clarifies any misconception and enables an accurate and comprehensive understanding of the benefits arising from the implementation of the law.

1 Why does China need to legislate directly on national security in Hong Kong?

The national security law for the HKSAR seeks to safeguard national security and preserve the “one country, two systems” principle by preventing, ceasing and punishing the acts and activities of an extremely small minority of criminals who endanger national security, thereby protecting the vast majority of law-abiding citizens. This will enable Hong Kong society to find a way out of the current impasse to restore stability as soon as possible and get Hong Kong back on track.

2 What impact will the national security law have on Hong Kong’s long-term development?

The national security law will ensure Hong Kong’s long-term stability and prosperity and the smooth implementation of “one country, two systems”, as well as preserve our high degree of autonomy and the principle of “Hong Kong people administering Hong Kong”.

The national security law will add to the city’s institutional strengths and economic competitiveness as an international financial and business centre. It will strengthen our stability, safety and security in the long run, which in turn will provide the certainty needed for business and investment to thrive.

3 Will the rights and freedoms of Hong Kong people be adversely affected by the national security law?

No. All the basic rights and freedoms legitimately enjoyed by Hong Kong residents will remain intact.

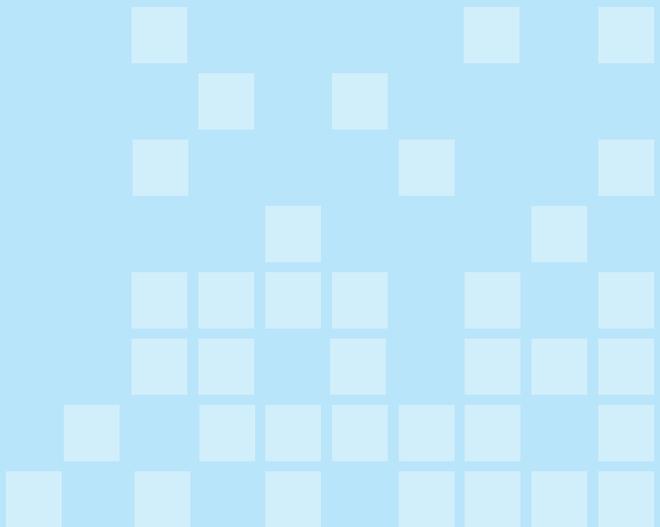
The national security law will also fully respect the judicial independence, including that of final adjudication, and core values of the HKSAR. Law-abiding and peace-loving citizens and investors have nothing to fear.

4 Will the daily activities of Hong Kong residents be affected by the national security law?

The vast majority of Hong Kong people who abide by the law and do not participate in acts or activities that undermine national security will not be affected. Life will go on as normal. The public will continue to enjoy the legitimate freedoms of speech, of the press, of assembly, of protest and procession, etc. They can continue to freely engage as usual in international exchanges, academic exchanges and businesses.

5 Will the national security law in Hong Kong undermine “one country, two systems”?

No. It will preserve the security and stability needed for society to prosper through preventing, ceasing and punishing an extremely small minority of criminals who endanger national security. The “one country, two systems” policy, the capitalist system practised in Hong Kong, the high degree of autonomy, as well as the legal system of the HKSAR will not be affected. The executive, legislative, independent judicial power, including that of final adjudication, will also remain unaffected.



6 Will the national security law in Hong Kong violate the Basic Law?

Certainly not. The Constitution of the People's Republic of China (the Constitution) and the Basic Law together form the constitutional basis of the HKSAR. The HKSAR was established in accordance with Article 31 and Article 62 of the Constitution. Article 62(2) of the Constitution stipulates that the NPC can exercise the power to supervise the enforcement of the Constitution.

The Decision adopted by the NPC, the highest organ of state power, on May 28, 2020, which authorises the Standing Committee of the National People's Congress (NPCSC) to formulate relevant laws on establishing the legal system and enforcement mechanisms for the HKSAR to safeguard national security, is an example of the NPC exercising the power conferred on it by the Constitution – a lawful and constitutional basis beyond dispute.

The Decision does not breach Article 23 of the Basic Law as the latter is an obligation and does not change the fundamental nature that legislating for national security is a matter within the purview of the Central Authorities. The HKSAR is still required to implement Article 23 as soon as possible.

7 Will the national security law affect Hong Kong's status as a separate customs territory and its economic ties with foreign jurisdictions?

No. Hong Kong's status as a separate customs territory, enshrined in Article 116 of the Basic Law, is assured by the World Trade Organisation of which Hong Kong is a founding member. This status cannot be arbitrarily taken away. The legislation tackles only four types of acts and activities that endanger national security. It will not affect overseas investors running business legally in Hong Kong nor the city's status as a separate customs territory as well as its economic ties with foreign economies. Maintaining Hong Kong's status as a separate customs territory, as well as extensive economic and trade co-operation with other countries and regions, benefit not only Hong Kong but also traders and investors all over the world.

8 Will the national security law erode foreign investor confidence in Hong Kong?

No. It will protect Hong Kong from relevant threats, help maintain the city's political and social stability as well as create a favourable environment in the long run for investments and conducting businesses. Overseas investors and members of the public who abide by the laws need not worry.





Foreign authorities have expressed concerns about enacting the national security law in Hong Kong and are considering imposing sanctions. Will this undermine Hong Kong's economy?

The use of unilateral sanctions to threaten or intervene in the policies of other countries and regions is a violation of international law and practice. Any sanctions against Hong Kong are a double-edged sword that will not only harm the interests of Hong Kong but also significantly harm the interests of the concerned foreign economies.

In exercising our high degree of autonomy under “one country, two systems”, the HKSAR Government is resolutely committed to upholding our international responsibilities and agreements with all countries in areas such as trade, investment protection, mutual legal assistance, the fight against transnational crime and terrorism, as well as education and cultural exchanges. Much of this bilateral co-operation is underpinned by multilateral institutions such as the World Trade Organisation, the International Civil Aviation Organisation, etc. or bilateral agreements negotiated over the years such as Tax Information Exchange Agreements and Air Services Agreements. They are not a “gift” to Hong Kong by an individual jurisdiction.





What acts and activities are covered in the national security law to be implemented in Hong Kong?

The law targets four types of acts and activities to split the country, subvert state power, organise and carry out terrorist activities and other behaviour that seriously endanger national security, as well as activities of foreign and external forces interfering in the affairs of the HKSAR.



Why do we need such national security law now?

There is the need and urgency for legislation. Unrest and violent protests in 2019 exposed a gaping hole in the HKSAR's ability to protect national security. The HKSAR has been unable to enact laws in relation to national security over the past 23 years. The almost malfunctioning of the Legislative Council, the non-pro-establishment members' open resistance of any national security legislation and the demonization of Article 23 of the Basic Law over the years render it almost impossible to complete the task of local legislation for Article 23 in the foreseeable future. The Central Government cannot turn a blind eye to such a situation and the continued threats to national security.





Do other countries have national security laws?

Western countries such as the United States, the United Kingdom, France, Germany, Canada and Australia have all enacted laws to safeguard national security and formed relevant decision-making and enforcement bodies. To suggest that our sovereign, China, does not have the right to legislate to protect national security in the HKSAR is not just wrong but also smacks of hypocrisy and double standards.



Does the HKSAR Government still have to complete legislation on Article 23 of the Basic Law?

Yes. The HKSAR still has the obligation to complete legislation to implement Article 23 of the Basic Law as soon as possible. The NPC Decision is not replacing or repealing Article 23, which stipulates the constitutional duty and legislative obligation that the HKSAR shall enact laws on its own to prohibit acts that endanger national security.



Does it comply with the Basic Law if the national security law is added to Annex III of the Basic Law for implementation in Hong Kong?

Yes, absolutely. Article 18(3) of the Basic Law stipulates that the NPCSC may add national laws to the list of laws in Annex III of the Basic Law. The NPCSC can add to Annex III national laws relating to defence and foreign affairs as well as other matters outside the autonomy of the HKSAR and apply them in Hong Kong. National security has never been part of the HKSAR's autonomy since it affects all 1.4 billion Chinese nationals and is no doubt a matter within the purview of the Central People's Government.



Will the national security law undermine Hong Kong's legal system?

No. Establishing the legal system to safeguard national security will not undermine or replace Hong Kong's existing legal system. Since its return to the Motherland, Hong Kong has continued its common law legal system, which is protected under the Basic Law. The NPC's Decision on legislating a national security law for Hong Kong is only intended to supplement the inadequacy of existing laws. Implementing the law will be compatible with Hong Kong's existing legal system and will not affect our independent judicial power, including that of final adjudication.

