

Legislation for
Safeguarding National Security
in the
Hong Kong
Special Administrative Region



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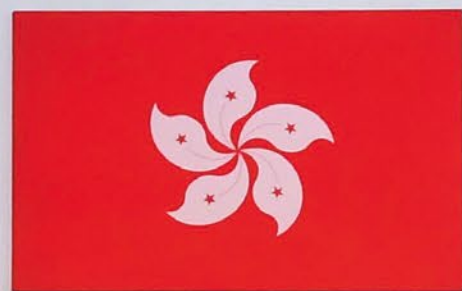
慶祝香港回歸祖國二十周年



“ To uphold and implement the principle of "One Country, Two Systems" meets the interests of the Hong Kong people, responds to the needs of maintaining Hong Kong's prosperity and stability, serves the fundamental interests of the nation, and meets the shared aspiration of all Chinese. That is why I have made it clear that the Central Government will unswervingly implement the policy of "One Country, Two Systems" and make sure that it is fully applied in Hong Kong without being bent or distorted. ”

*Address by H.E. **Xi Jinping**,
President of the People's Republic of China
at the Inaugural Ceremony of the Fifth-Term Government of
the Hong Kong Special Administrative Region (HKSAR) held on 1 July 2017*

周年大會暨香港特別行政





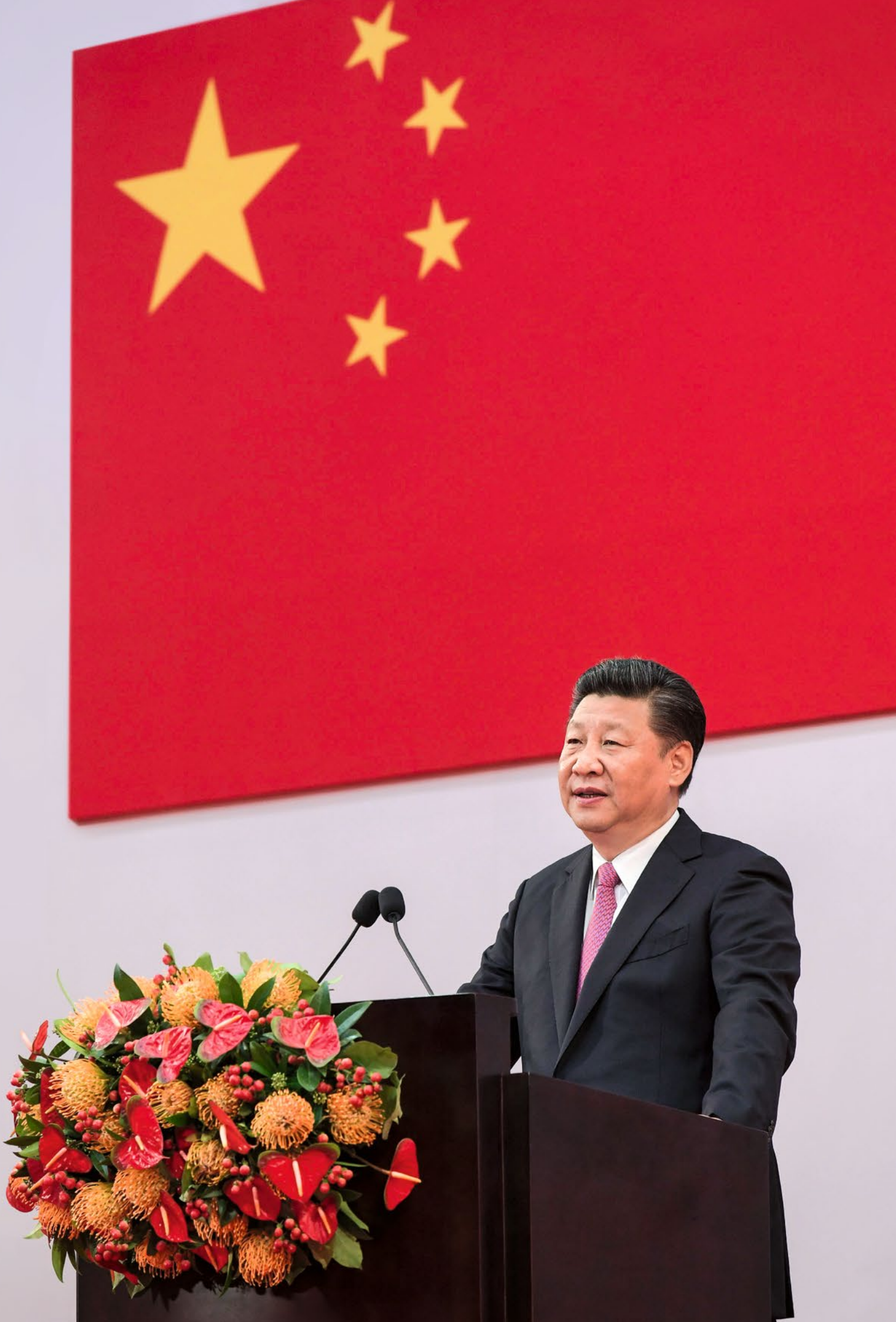


*Hong Kong's strengths under
"One Country, Two Systems" :*

- Rule of law
- Independence of judiciary
- Clean government
- Low crime rate
- International financial centre
- Business and aviation hub

“ Any attempt to endanger China's sovereignty and security, challenge the power of the Central Government and the authority of the Basic Law of the HKSAR or use Hong Kong to carry out infiltration and sabotage activities against the mainland is an act that crosses the red line, and is absolutely impermissible. ”

*Address by H.E. **Xi Jinping**,
President of the People's Republic of China
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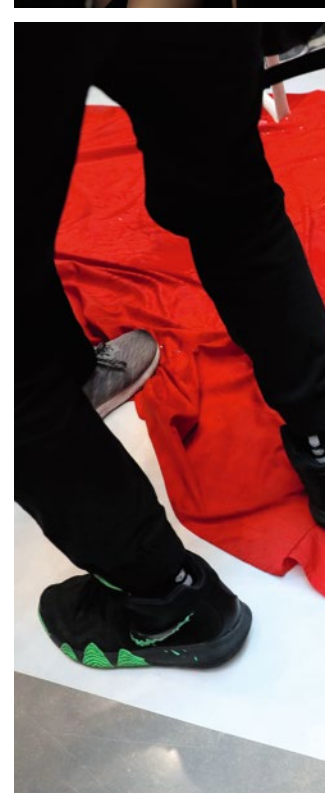






Chapter I

Necessity and Urgency





- Every country has laws and duty to safeguard its national security and sovereignty.
- Facing an increasing threat to national security in the HKSAR since June 2019, with violence by rioters continued to escalate.
- Opposition forces and organizations advocating "Hong Kong independence", "self-determination" and "referendum" have blatantly challenged the authority of the Central Authorities and the HKSAR Government.
- External elements have intensified their interference in HKSAR's internal affairs.
- Our country's sovereignty, security and development interests are seriously jeopardized, and hence the Central Authorities have no alternative but to step in and take action.





- The National Security Law (NSL) is necessary for suppressing the four types of criminal acts, namely acts of secession, subversion of state power, organization and perpetration of terrorist activities, and collusion with a foreign country or with external elements to endanger national security.
- The NSL can promptly revert the chaotic situation in the past year and restore stability in the HKSAR, thereby improving the city's business and investment environment.





Chapter II

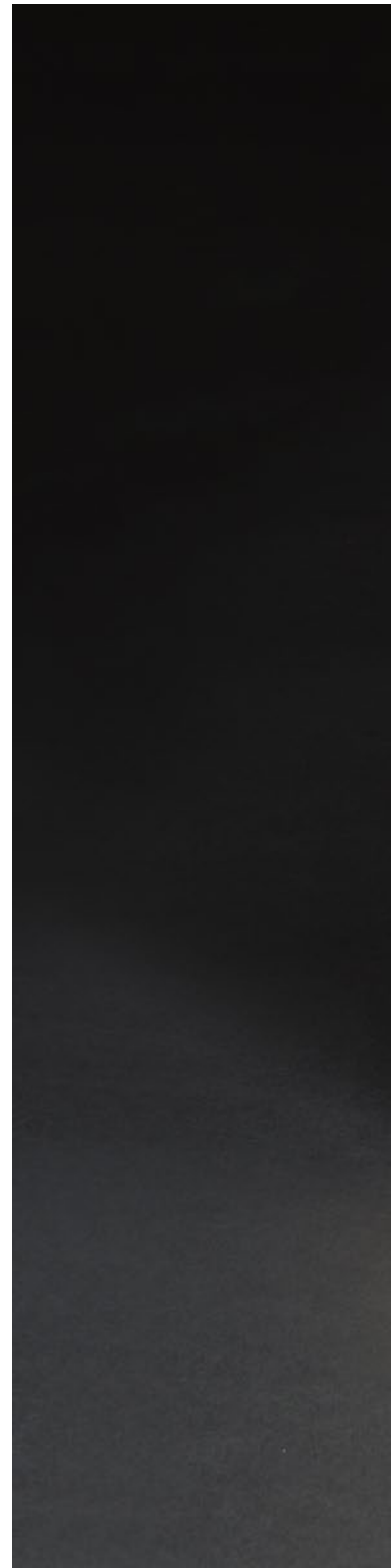
Lawfulness of the National Security Law

- The NSL is totally constitutional and lawful: as the highest organ of state power, the National People's Congress (NPC) exercised the power conferred on it by the Constitution (i.e. a lawful and constitutional basis beyond dispute).
- Article 18(3) of the Basic Law of the HKSAR stipulates that the Standing Committee of the NPC (NPCSC) may add national laws to the list of laws in Annex III to 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.
- Safeguarding national security through legislation is in line with international practice, noting that Western countries have also enacted numerous laws to safeguard national security and established relevant decision making and enforcement bodies.





- Offences similar to the four types of offences under the NSL can be found in Western countries.
- Some of their penalties are even harsher, which include death penalty for terrorism-related offences, while some of their offences also have extraterritorial effect.





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Chapter III

Preserving “One Country, Two Systems” for our Long-term Stability

- HKSAR Government has primary responsibility for implementing the NSL. Except in rare specified situations, the HKSAR shall exercise jurisdiction over offences under the Law.
- The Chief Executive of the HKSAR chairs the Committee for Safeguarding National Security of the HKSAR, which assumes primary responsibility for safeguarding national security in the HKSAR.





- The NSL is enacted for ensuring the resolute, full and faithful implementation of the policy of "One Country, Two Systems" under which the people of Hong Kong administer Hong Kong with a high degree of autonomy.
- The executive, legislative and independent judicial power, including that of final adjudication, of the HKSAR remains unaffected.
- The Office for Safeguarding National Security of the Central People's Government (CPG) in the HKSAR only has jurisdiction under specified circumstances in accordance with the NSL.



中華人民共和國香港特別行政區
Hong Kong Special Administrative Region
of the People's Republic of China

國家安全

National Security



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Law



Chapter IV

Protection of Lawful Rights and Freedoms

- The NSL clearly stipulates that the HKSAR shall protect the rights and freedoms, including freedoms of speech, of the press, of publication, of association, of assembly, of procession and of demonstration, which its residents enjoy under the Basic Law, and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong in accordance with the law.
- The NSL does not affect the legitimate rights of Hong Kong residents to exercise freedom of speech, including criticising government policies or policies and decisions made by officials.





- As a highly international city, Hong Kong has frequent exchanges and close liaison with other countries, regions and relevant international organisations. All these normal exchange activities are protected by the Basic Law and the laws of the HKSAR.
- Paying visits to foreign countries to talk about the situation in Hong Kong, expressing opinions regarding the city and exchanging information are normal activities on which the NSL does not impose any restrictions.









Chapter V

Rule of Law and Judicial Independence





- Establishing the legal framework to safeguard national security will not undermine or replace the HKSAR's existing legal system, and our judicial system is protected by the Basic Law.
- The NSL clearly stipulates that important principles of the rule of law should be adhered to, including conviction and punishment in accordance with the law, presumption of innocence, non bis in idem, and protection of the right to defend oneself and other rights in judicial proceedings that a criminal suspect, defendant and other parties in judicial proceedings are entitled to under the law.
- Without retrospective effect: the NSL applies only to acts committed after its entry into force.





- Trial shall be conducted in an open court, and only under circumstances where the trial involves State secrets or public order and an open trial would be inappropriate shall all or part of the trial proceedings be closed to the media and the public. However, the judgment shall always be delivered in an open court.
- Article 45 of the NSL also stipulates that national security cases under the HKSAR's jurisdiction shall be handled in accordance with its existing judicial procedures.





- Designating certain judges to handle national security cases will not affect judicial independence: it is not uncommon in Hong Kong or other regions to designate certain judges to handle a particular type of cases.
- The HKSAR has jurisdiction over the vast majority of cases. Exceptional circumstances under which the Office for Safeguarding National Security of the CPG in the HKSAR shall exercise jurisdiction are clearly set out in the NSL; and the Office may exercise jurisdiction over a case only upon approval by the CPG of a request made by the HKSAR Government or by the Office itself.





Chapter VI

Staunch Support from Different Sectors of the Hong Kong Community to the National Security Law

“ Despite the escalating tensions in society in recent years, I remain hopeful that, with full conviction in "One Country, Two Systems" and upon implementation of the national security legislation, Hong Kong will ride out the political storm since last June and emerge stronger with stability restored. ”

*video message by the Chief Executive of the HKSAR, Mrs Carrie Lam
at the United Nations Human Rights Council meeting (30 June 2020)*

“ As residents of Hong Kong, we enjoy the protection provided by the state, and in turn have a reciprocal obligation to protect the state by supporting the introduction of legislation which prohibits criminal acts that threaten the existence of the state. We therefore support the national security laws which will operate under the principle of “One Country, Two Systems,” to better ensure universities can continue to create knowledge through research and learning. ”

Chairmen of the Councils of the University Grants Committee Funded Universities

“ Hong Kong belongs to China. Hong Kong’s affairs are internal affairs of China. The Central Authorities’ timely move to enact the National Security Law can definitely help bring the society of Hong Kong back on its right track. ”

Mr CHENG Huan, SC

“ it will curb terror-type activities, restore a peaceful environment, and create jobs. The International Covenant on Civil and Political Rights applies in Hong Kong, and our people will continue to take full advantage of the rights it guarantees, with their way of life being underpinned by an independent judiciary and a world-class legal system ”

*Mr Ian Grenville CROSS, SBS, SC
former Director of Public Prosecutions*

“ The National Security Law can be construed as a “new social contract” - on the relationship between the government and the people - put forward by the Central Authorities to ensure the successful and continued implementation of “One Country, Two Systems”. It provides a clear legal formulation of the “bottom line” or red line for the “One Country” element of “One Country, Two Systems”. It does not in any way undermine the dignity of the people of Hong Kong. ”

*Professor Albert CHEN Hung-yee, SBS, JP
Department of Law, University of Hong Kong*

“ Normal business operations of industrial and commercial enterprises in Hong Kong are totally unaffected after the passage of the National Security Law. It is believed that with details for such aspects as law enforcement, prosecution, trial and penalty being set out clearly in the provisions, it should help stabilise the current situation, and safeguard the business environment of Hong Kong and enhance the confidence of local and foreign investors in the long run. ”

*Dr Jonathan CHOI Koon-shum, GBS, JP
Chairman, Chinese General Chamber of Commerce*

“ The National Security Law enables our society to restore peace and order, helping local and foreign investors enhance their confidence in doing business in Hong Kong, and in the long run, reinforcing the basis of “One Country, Two Systems”. ”

*Dr Dennis NG Wang-pun, BBS, MH
President, Chinese Manufacturers' Association of Hong Kong*

“ The manufacturing sector generally supports the National Security Law and considers that the law will stabilise the business environment. Previously, many foreign investors decided to defer or give up the establishment of their regional headquarters in Hong Kong amid instability in our society, and planned to explore Mainland and Southeast Asian markets instead. It is believed that if we achieve social stability, foreign investors will return to Hong Kong for investment, bringing more gains than losses for Hong Kong in the long run. Also, the overall economic status of Hong Kong will not be changed. ”

*Dr Daniel YIP Chung-yin
Chairman, Federation of Hong Kong Industries*

“ The industrial and commercial sectors hope that the implementation of the National Security Law can curb violence and help small and medium enterprises rebuild their business. Given the free trade system, low taxation regime, hard-core financial system and legal protection for assets in Hong Kong, many foreign companies with their Asia Pacific headquarters here will not wish to leave such a good place. ”

*Dr Eddy LI Sau-hung, GBS, JP
President, Hong Kong Economic and Trade Association*

“ Being part of China guaranteed Hong Kong could benefit from a huge market of 1.4 billion people. The recent surge of listings on the city's stock exchange is a vote of confidence. ”

*Dr the Hon Allan ZEMAN, GBM, GBS, JP
Chairman, Lan Kwai Fong Group*

“ The same rules and regulations administered by the Hong Kong Monetary Authority before the introduction of the National Security Law will continue to apply in the same way. To put it simply, it should be business as usual for the ongoing operations of our city's financial institutions. ”

*Mr Eddie YUE Wai-man, JP
Chief Executive, Hong Kong Monetary Authority*

“ With the United States reacting to the National Security Law with sanctions, Hong Kong is indeed facing more challenges. But it is exactly when the world is seeing growing frictions that our intermediary status is and will be all the more valuable. Looking globally, Hong Kong's prospects are attractive. Foreign talent continue to come here to do business and build careers, and local talent remain strong and committed. ”

*Mr Laurence LI Lu-jen, SC, JP
Chairman, Financial Services Development Council*

“ The unanimous passage of the National Security Law by the National People's Congress Standing Committee marks a fresh start for Hong Kong. Social stability is crucial for financial development and is an important line of defense to safeguard the financial security of our country and Hong Kong. The legislation can enhance safety, strengthen the investment environment and boost the confidence of investors. ”

*Mr Tim LUI Tim-leung, SBS, JP
Chairman, Securities and Futures Commission*

“ The National Security Law would remould Hong Kong as a safe and stable social environment attracting continual inflow of foreign investment and professionals. It is believed that stakeholders and institutions in the financial market will support the legislation. Hong Kong must leverage its unique advantages under the principle of “One Country, Two Systems” to serve the long-term development needs of our country. ”

*Dr the Hon Moses CHENG Mo-chi, GBM, GBS, JP
Chairman, Insurance Authority*

“ What the National Security Law restricts is the “freedom” to endanger national security of an extremely small minority of people; and what it protects is, inter alia, the “freedom from fear” for all Hong Kong citizens. It is believed that with cases being considered by the court, more Hong Kong people will be even more reassured. The provision providing that the National Security Law has no retrospective effect also demonstrates the Central Authorities’ respect for the common law tradition of Hong Kong. ”

*Professor LAU Siu-kai, GBS, JP
Vice President, Chinese Association of Hong Kong and Macao Studies*

“ With this incontrovertible evidence of foreign aid and interference, it is a perfect opportunity to show the full force of the new National Security Law. ”

*Mr Tony Kwok Man-wai, SBS, IDS, JP
Adjunct Professor of HKU Space and
former Deputy Commissioner and Head of Operations of the ICAC*

“ Upon implementation of the National Security Law, the Hong Kong community as a whole, including the industrial and commercial sector and the innovation and technology sector, feels that Hong Kong is now a favourable place to live and work in. Many foreign investors and talent remain confident in Hong Kong and there has been no sign of brain drain. ”

*Dr Lee George LAM, BBS
Chairman, Hong Kong Cyberport Management Company Limited*

“ A stable social environment is a pre-requisite for research and development or re-industrialisation. ”

*Dr Sunny CHAI Ngai-chiu, BBS
Chairman, Hong Kong Science and Technology Parks Corporation*

“ Take Macao as an example, the National Security Law will not affect religious freedom. The Sheng Kung Hui may continue to hold worships, Bible classes, prayer meetings, etc. ”

*The Most Revd Dr Paul KWONG, GBS
Hong Kong Sheng Kung Hui*

“ The National Security Law can effectively create stable and orderly investment, business and social environments, protect the interests of the general public, and safeguard the stability of Hong Kong. The law is an important cornerstone for the smooth and long-term successful practice of “One Country, Two Systems”, as well as a premise for the healthy development of Buddhism in Hong Kong. ”

Hong Kong Po Lin Monastery





