

HKSAR Government strongly opposes United States report on human rights

The Hong Kong Special Administrative Region (HKSAR) Government today (April 13) expressed strong opposition to the comments contained in the United States Department of State's 2021 Country Reports on Human Rights Practices (the Report) relating to the HKSAR.

A Government spokesman said, "We strongly oppose the various unfounded allegations against the HKSAR Government in the Report. Human rights are fully protected by law in Hong Kong. The Basic Law, the constitutional document of the HKSAR, provides a constitutional guarantee for fundamental rights and freedoms, including the right to equality before the law, and is buttressed by the rule of law and an independent judiciary. Safeguarding human rights and freedoms is a constitutional duty of the HKSAR Government. The Government attaches the utmost importance and is firmly committed to upholding human rights and various freedoms in Hong Kong. We strongly urge the United States to immediately stop breaching the international law based on its biased political interests to intervene in Hong Kong matters, which are purely the internal affairs of the People's Republic of China (PRC)."

Improving the Electoral System

"We strongly oppose the unfounded allegations against the 2021 Legislative Council General Election. The improvement to the electoral system fully implements the principle of 'patriots administering Hong Kong', ensuring that members of the Legislative Council love the country and Hong Kong, and act in the interests of the country's development and the long-term prosperity and stability of Hong Kong. Membership of the Legislative Council is increased from 70 to 90 in number, with a much wider spread across different backgrounds and the political spectrum. Such diversity showcases the broad representation and political inclusiveness of the improved electoral system. The elected legislators have been returned by the Election Committee constituency, functional constituencies and geographical constituencies through direct elections, thereby balancing the overall interests of Hong Kong, the interests of different sectors and districts and ensuring balanced participation in the election. Furthermore, all seats were contested, unlike previously when seats in some subsectors were automatically elected because only one candidate was running. The open, fair, and healthy competition among candidates reflected the fairness and competitiveness of the new electoral system."

The National Security Law

"The allegations smearing the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the National Security Law) is totally groundless and cannot be further from the truth," the spokesman said.

"We must reiterate that all law enforcement actions taken by the HKSAR law enforcement agencies under the National Security Law, or indeed any local legislation, are based on evidence, strictly according to the law and for the acts of the persons or entities concerned, and have nothing to do with their occupation, background or political stance.

"The National Security Law has clearly stipulated four categories of offences that endanger national security. Such offences are clearly defined and are similar to those in the national security laws of other jurisdictions. The elements, penalties, mitigation factors and other consequences of the offences are clearly prescribed in Chapter III of the National Security Law. A defendant may only be convicted by the court if the court is satisfied beyond reasonable doubt that the defendant has the relevant actus reus and mens rea of the offence.

"Accusations against the formation of a list of designated judges who handle cases of endangering national security are not only baseless but also factually incorrect. The Chief Executive only establishes a list or panel of judges for dealing with national security cases. The listing and handling of cases as well as the assignment of which judge or judges are to handle cases have always been judicial functions to be exercised by the Judiciary independently. It is not uncommon for courts to designate specialist judges dealing with a particular area of law.

"Acts and activities that endanger national security may have very serious consequences. While the National Security Law has put in place a stringent threshold for the grant of bail for cases endangering national security, the law has not violated the legal principle of presumption of innocence. On the contrary, it is clearly stipulated in the judgment of the Court of Final Appeal concerning the provision on bail of the National Security Law that the National Security Law has emphasised protection and respect for human rights as well as adherence to rule of law values while safeguarding national security.

"Being an inalienable part of the PRC, the HKSAR has the constitutional duty to safeguard national security. Since the implementation of the National Security Law on June 30, 2020, stability has been restored in Hong Kong society. People's lives and property are protected and they can once again enjoy their legitimate rights and freedoms, which the National Security Law clearly stipulates shall be protected 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."

Academic Freedom

"As regards academic freedom, post-secondary education institutions in the HKSAR are independent organisations. While enjoying autonomy on institutional affairs (including the handling of matters concerning student unions), they also have the responsibility to make sure their operations are

in compliance with the law and meet the interests of the community at large. The institutions are fulfilling their obligation of safeguarding national security in accordance with statutory requirements and the principle of institutional autonomy.

"Article 137 of the Basic Law specifically and clearly states that educational institutions of all kinds may retain their autonomy and enjoy academic freedom. These safeguards provided in accordance with the Basic Law have not been altered in any way and remain in full force."

Freedoms of the Press and Speech

"Under Article 25 of the Basic Law, all Hong Kong residents shall be equal before the law. Allegations that our authorities have targeted and suppressed independent media in the HKSAR under the National Security Law are simply unfounded.

"Since the city's reunification with the motherland, the HKSAR Government has been firmly committed to safeguarding the freedoms of the press and speech, both of which are protected under the Basic Law and the Hong Kong Bill of Rights. Article 4 of the National Security Law also stipulates that such freedoms enjoyed by the residents of the HKSAR shall be protected in accordance with the law while safeguarding national security in the HKSAR.

"Foreign countries that have in their respective jurisdictions national security legislation which is more wide-ranging than the National Security Law are no doubt aware that according to the International Covenant on Civil and Political Rights, the exercising of the freedoms of the press and speech must comply with the restrictions of the law for reasons including the protection of national security and public order.

"We must also point out that the media landscape in Hong Kong is as vibrant as ever. As a case in point, a total of 211 media organisations, be they based locally, in the Mainland or overseas, are registered with the HKSAR Government News and Media Information System of the Information Services Department at present, showing an increase after the implementation of the National Security Law. As always, the media can exercise their right to monitor the HKSAR Government's work, and their freedom of commenting on or even criticising government policies remains uninhibited as long as it is not in violation of the law."

Disbandment of Individual Organisations

"The Report expressed concerns on the disbandment announced by individual organisations in 2021. The HKSAR Government reaffirms that freedom of association in the HKSAR is guaranteed under the Basic Law. Article 27 of the Basic Law stipulates that HKSAR residents 'shall have freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions; and to strike'. Article 18 of the Hong Kong Bill of Rights, as set out in the Hong Kong Bill of Rights

Ordinance (Cap. 383), also guarantees that '(e)veryone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests'. That said, whilst freedom of association should be respected and protected, similar to other rights and freedoms, it is not absolute. It may be subject to restrictions that are provided by law and are necessary for pursuing legitimate aims such as the protection of national security or public order.

"Safeguarding national security is a matter of fundamental importance. While some organisations might decide to disband on their own accord, relevant authorities may also disband certain organisations in accordance with the relevant law with a view to minimising the risks of endangering national security that an organisation may bring about. Any such actions are taken in strict accordance with the law."