

HKSAR Government strongly refutes foreign politicians' recent remarks on Hong Kong

On recent allegations made by certain officials and politicians in the United States, the United Kingdom and the European Parliament relating to a Hong Kong Police's arrest operation on April 18 and other security matters, a spokesman for the Hong Kong Special Administrative Region (HKSAR) Government said today (May 1) that they were totally unfounded and amounted to a serious intervention in Hong Kong's affairs. The HKSAR Government strongly disagreed with the grossly irresponsible remarks and expressed deep regret about them.

The spokesman pointed out that since its return to the Motherland, the HKSAR had maintained stability and prosperity under the principle of "One Country, Two Systems", exercising "Hong Kong people administering Hong Kong" and a high degree of autonomy in strict accordance with the Basic Law (BL) of the HKSAR of the People's Republic of China.

"The Central Government has time and again reiterated that it 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. How to implement the policy in the HKSAR – an inalienable part of the People's Republic of China (BL Article 1) and a local administrative region of the People's Republic of China which shall enjoy a high degree of autonomy and come directly under the Central People's Government (BL Article 12) – are entirely internal affairs of the People's Republic of China. No other state has the right to intervene, directly or indirectly, in those internal affairs," the spokesman added.

"The people of Hong Kong enjoy extensive rights and freedoms which are enshrined in the BL. BL Article 4 states that the HKSAR shall safeguard the rights and freedoms of the residents of the HKSAR and of other persons in the Region in accordance with law. In addition, human rights and freedoms in Hong Kong are fully protected by the Hong Kong Bill of Rights Ordinance and other legislation, and underpinned by an independent judiciary."

The HKSAR Government always respects and protects human rights and freedoms. Any allegation that there has been an erosion in freedoms enjoyed by Hong Kong people is unfounded. However, these rights are not absolute. As pointed out by the Chief Justice of the Court of Final Appeal at the Ceremonial Opening of the Legal Year 2020, "it is important to understand that the enjoyment of these rights has limits so as not to affect adversely to an unacceptable level the enjoyment by other members of their community of their rights and liberties." There are clear limits in the law as to the exercise of these rights. When law is broken, action will be taken in accordance with the criminal justice system.

"We therefore take great exception to comments made by officials and politicians in foreign countries concerning the recent arrests and prosecution of a number of persons for organising and participating in unauthorised assemblies in Hong Kong. The allegation by some that those arrests amounted to an attack on Hong Kong's freedoms and a breach of the BL is absurd and can hardly stand the test of any law-abiding jurisdiction," the spokesman said.

BL Article 63 provides that "The Department of Justice of the Hong Kong Special Administrative Region shall control criminal prosecutions, free from any interference." The prosecutors have always been discharging this constitutional duty independently and professionally, without fear or favour. Prosecutorial decisions are based on an objective assessment of all admissible evidence and applicable laws, made strictly in accordance with the Prosecution Code which is available to the public. Cases will not be handled any differently owing to the political beliefs or background of the persons involved.

When law enforcement agencies have completed their investigation, they would seek legal advice from the Department of Justice. The prosecutors would carefully consider the investigation reports and relevant materials submitted. A prosecution would only be commenced if the prosecutor is satisfied that there is sufficient admissible evidence to support a reasonable prospect of conviction.

In short, the well-established procedures of Hong Kong's criminal justice system include the independent investigations by law enforcement agencies, the independent prosecutorial decisions based on the objective assessment of evidence, applicable laws and in accordance with the Prosecution Code, and finally, open trials by an independent judiciary.

"The guarantee of judicial independence is explicitly set out in the BL and the quality of the judgments of our courts contribute to the much respected judiciary and rule of law in the HKSAR.

"We therefore note with abhorrence certain overseas politicians' request that the HKSAR Government should drop the charges against the arrested individuals. If we were to accede or to be seen to yield to such unreasonable demands, we would not only be unfair and unprofessional but would also act in violation of the spirit of the rule of law – a core value in Hong Kong," the spokesman said.

The HKSAR Government remains steadfast to uphold the rule of law. The latest Rule of Law Index 2020 released by the World Justice Project, in which Hong Kong maintains its ranking as No. 5 in the East Asia and Pacific Region and No. 16 globally, several places ahead of the United States, has clearly affirmed Hong Kong's commitment.

On legislating for BL Article 23, the spokesman said, "The HKSAR Government has the constitutional duty to ensure that the necessary legislation is in place to safeguard national security. Having laws in place

to protect national security is common in many jurisdictions, and we do not see how any defence of sovereignty and security by a jurisdiction would impact on its local and overseas investment. Coincidentally, it is relevant to note security issues arising from the social unrest last year were part of the causes affecting Hong Kong's score under 'Investment Freedom' according to the US-based Heritage Foundation 2020 Index of Economic Freedom."

As regards enquiries about the role of the Hong Kong and Macao Affairs Office of the State Council (HKMAO) and the Liaison Office of the Central People's Government (LOCPG) in the HKSAR, they represent the Central People's Government (CPG) to which the HKSAR comes directly under pertaining to BL Article 12. These offices have the power and responsibility over the proper and full implementation of the BL and "One Country, Two Systems" in the HKSAR.

It is therefore clearly legitimate for the HKMAO and the LOCPG to recently express their concerns over the prolonged paralysis of the House Committee of the Legislative Council (LegCo), thereby hindering the LegCo's performance of its legislative functions under the BL.

"Any suggestion that those legitimate remarks by the HKMAO and the LOCPG amount to interference only illustrates an ignorance of the constitutional order of the HKSAR and its relationship with the Central Authorities," the spokesman added.