

# HKSAR Government strongly refutes the US Congressional-Executive Commission on China

In response to the analysis released by the United States Congressional-Executive Commission on China (US-CECC) on the human rights condition in Hong Kong after the passage of The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the National Security Law), the Hong Kong Special Administrative Region (HKSAR) Government made the following statement today (November 6):

The HKSAR Government expresses strong indignation at and opposition to the totally biased analysis made by US-CECC, which smears the National Security Law and the human rights condition in the HKSAR. The HKSAR Government firmly implements the principle of "One Country, Two Systems" and protects the lawful rights and interests of people living and doing businesses in Hong Kong, and will continue to do so resolutely. Once again, we firmly oppose any form of intervention in HKSAR's affairs by foreign legislatures.

The HKSAR is an inalienable part of the People's Republic of China. It is a local administrative region which shall enjoy a high degree of autonomy under "One Country, Two Systems" and come directly under the Central People's Government. Upholding and implementing 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 and serves the fundamental interests of the nation. The Central People's Government has time and again made it clear that the Central Government will unswervingly implement the policy of "One Country, Two Systems".

As national security falls within the purview of the Central Authorities, our country has the right to legislate for this matter under "One Country, Two Systems". Every country has laws and duty to safeguard its national security and sovereignty. The international community should not adopt a double standard.

The National Security Law aims to prevent, suppress and impose punishment for an extremely small minority of offenders endangering national security, and only targets four types of acts and activities that endanger national security. The vast majority of law-abiding people, including Hong Kong residents and overseas investors, are not affected. The National Security Law clearly stipulates that human rights shall be respected and protected in safeguarding national security in the HKSAR; the rights and freedoms which Hong Kong residents enjoy under the Basic Law and the provisions of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong shall be protected in accordance with law. However, certain rights and freedoms recognised in the ICCPR are not

absolute. The Hong Kong Bill of Rights and the ICCPR stipulate that certain rights and freedoms may be subject to restrictions as prescribed by law if it is necessary in the interests of national security, public safety, public order or the rights and freedoms of others, etc. Court rulings also point out that once a protest involves the use or the threat of using violence, the protest would have gone beyond the constitutionally guaranteed bounds of peaceful demonstration. The HKSAR Government believes that the National Security Law is vital in bringing Hong Kong back on track and maintaining its long-term prosperity and stability.

The offences endangering national security are stringently defined in the National Security Law and are similar to those in the national security laws of other jurisdictions. The elements of the offences, the penalties, mitigation factors and other consequences of the offences are clearly prescribed in Chapter III. The prosecution has the burden to prove beyond reasonable doubt that the defendant has the actus reus and mens rea of the offence (e.g. the offence was committed knowingly or intentionally) before the defendant may be found guilty by the court. Moreover, enacting laws on national security with extraterritorial effect is fully in line with international practice.

On the arrests mentioned in the analysis, the Hong Kong Police have a statutory duty to maintain public safety and public order. If anyone contravenes the law anywhere in Hong Kong, it is the statutory duty of the Police to take action. The arrests made by the Police were based on evidence and strictly according to the laws in force. If evidence shows that anyone has violated the law, he or she must face justice regardless of his or her social status or background. No one has the privilege to break the law without facing consequences. As a law enforcement agency, the Police will take action in strict accordance with existing laws whenever unlawful acts take place. The Police have always been handling and will continue to handle all cases in a fair, just and impartial manner in accordance with the law.

On the postponement of the General Election of the Legislative Council (LegCo), the health and wellbeing of the people are the overriding concern of any responsible government. The HKSAR Government has repeatedly stressed that the postponement of the 2020 LegCo General Election is entirely based on public health grounds. As the new wave of the COVID-19 epidemic in July 2020 saw an alarming surge in confirmed cases and deaths, it was necessary to implement various stringent social distancing measures in order to combat the spread of the virus. With these measures in place, no meaningful electioneering activities could be conducted. The strict boundary control measures also make it virtually impossible for voters from the Mainland and overseas to return to cast their vote. In addition, legal, practical and time constraints mean that it is not feasible to introduce alternative method to facilitate electors to vote. The decision to postpone the election is therefore to protect public health and the voting rights of all registered voters.

The HKSAR Government respects and safeguards the lawful rights of Hong Kong people, including the right to vote and the right to stand for elections. It also has a duty to implement and uphold the Basic Law and

ensure that all elections will be conducted in accordance with the Basic Law and relevant electoral laws. People advocating or promoting Hong Kong independence, self-determination or changing the system of the HKSAR by supporting Hong Kong independence as an option for self-determination; soliciting intervention by foreign governments or political authorities in relation to the HKSAR's affairs, etc. could not genuinely uphold the Basic Law and could not therefore perform the duties of a LegCo Member. The HKSAR Government completely agrees with and supports Returning Officers to exercise their statutory duties in accordance with the law, which has nothing to do with eroding the rights and freedoms of the people.

Academic freedom is an important social value treasured by Hong Kong and protected by the Basic Law. It is also a cornerstone of our reputable higher education sector. The Government attaches great importance to upholding academic freedom and institutional autonomy, which includes institutions' autonomy in handling matters concerning the employment and dismissal of academic and administrative staff. As for schools, they are operated and managed by their respective incorporated management committees in accordance with their school mission and vision, and in compliance with the law, including the Education Ordinance as well as guidelines promulgated by the Education Bureau. It has all along been a consensus among parents and the school sector in Hong Kong that school campuses should be free from illegal acts and political interference so as to protect the well-being of students and ensure their safety. As far as textbooks are concerned, accuracy, impartiality and alignment with the curriculum are essential. The professional consultancy service for Liberal Studies textbook publishers was provided on a voluntary basis as agreed with the latter and all revisions were made by the publishers themselves based on professionalism without political intervention.

As regards temporary withdrawal of some books from public libraries by the HKSAR Government for reviewing whether they comply with the laws of Hong Kong, the collection policy of the Hong Kong Public Libraries (HKPL) is guided by the principles in the United Nations Educational, Scientific and Cultural Organization (UNESCO) Public Library Manifesto. The book collection must comply with the laws applicable to Hong Kong, which include the National Security Law. The HKPL is reviewing some books to see whether they violate the stipulations of the National Security Law. Legal advice will be sought in the process of the review.

On the intervention of private prosecution cases by the Department of Justice, the Magistrates Ordinance stipulates that the Secretary for Justice may at any stage of the proceedings before the magistrate intervene and assume the conduct of the proceedings. We would not comment on individual cases. Generally speaking, we have an obligation to intervene in and discontinue a private prosecution which is considered to have no reasonable prospect of conviction or constitute an abuse of process and etc. Under Article 63 of the Basic Law, the Department of Justice has the constitutional duty to control criminal prosecutions.

The HKSAR Government is firmly committed to protecting and respecting the freedom of the press, which is a fundamental right guaranteed by the

Basic Law.