

## HKSAR Government strongly disapproves and firmly rejects the US Hong Kong Policy Act Report

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The Government of the Hong Kong Special Administrative Region (HKSAR) today (April 1) strongly disapproved of and firmly rejected the unfounded and fact-twisting remarks and also the smears in the United States (US)' so-called 2023 Hong Kong Policy Act Report in respect of the implementation of the improved electoral system and the Hong Kong National Security Law (NSL), and the situation of the rule of law and human rights etc, in Hong Kong.

A spokesman for the HKSAR Government said, "The HKSAR Government strongly disapproves of and firmly rejects the slandering remarks and ill-intentioned attacks in the US' so-called 2023 Hong Kong Policy Act Report against Hong Kong where the 'one country, two systems' principle is successfully implemented. The HKSAR is an inalienable part of the People's Republic of China (PRC), is a local administrative region that enjoys a high degree of autonomy under 'one country, two systems' and comes directly under the Central People's Government. Through the so-called annual report, the US once again made fact-twisting remarks, with politics overriding the rule of law, about Hong Kong and interfered in Hong Kong affairs which are China's internal affairs. The US' attempt to undermine the stability and prosperity of Hong Kong will only expose its own weakness and faulty arguments and be doomed to fail."

The spokesman reiterated, "The HKSAR Government steadfastly safeguards national sovereignty, security and development interests, and upholds the authority of the NSL. It remains committed to governing Hong Kong in accordance with the law, resolutely carries out its duties and obligations to safeguard national security in accordance with the law, implements the principle of 'patriots administering Hong Kong' and upholds the rights and freedoms enjoyed by Hong Kong people as protected under the law, so as to ensure the steadfast and successful implementation of 'one country, two systems'. It strongly urges the US to immediately stop acting against the international law and basic norms of international relations and interfering in Hong Kong affairs and China's internal affairs at large."

### Improved Electoral System

The HKSAR Government spokesman said, "The HKSAR Government strongly opposes the false remarks against the improved Hong Kong's electoral system and the 2022 Chief Executive Election in the US' so-called report. The improved electoral system of the HKSAR puts in place legal safeguards to ensure full implementation of 'patriots administering Hong Kong'. Keeping political power in the hands of patriots is a political rule commonly adopted in the world. No one in any country or region in the world will ever allow political power to fall into the hands of forces or individuals who do not love, or even sell out or betray, their own country. Regardless of one's background, whoever meets the requirements and criteria of patriots can participate in elections in accordance with the law and serve the Hong Kong public by entering into the governance structure of the HKSAR after getting successfully elected.

"In accordance with the improved electoral system, the sixth-term Chief Executive Election was successfully held by the HKSAR Government on May 8, 2022, in strict accordance with the electoral laws of Hong Kong in an open, fair and honest manner.

"The improved electoral system has broadened the representation in the electorate for the Chief Executive Election through expanding the Election Committee from 1 200 members from four sectors to 1 500 members from five sectors. Those from newly included subsectors who are eligible to elect the Chief Executive come from grassroots organisations, district groups, small and medium-sized enterprises and Hong Kong members of relevant national organisations. The improved electoral system is advanced and superior; its broad representation, political inclusiveness, balanced participation and fair competition help bring the society back on track to focus on developing the economy, enhancing people's livelihood, sustaining Hong Kong's long-term stability and prosperity, and achieving good governance.

"Hong Kong residents' rights to vote and to stand for election are well enshrined in the Basic Law. The Decision of the National People's Congress of the PRC in March 2021 did not revise the ultimate aim of attaining universal suffrage provided for in Articles 45 and 68 of the Basic Law. The improved electoral system, by ensuring 'patriots administering Hong Kong' and safeguarding the overall interests of society, is conducive to the stable development of Hong Kong's democracy."

#### Hong Kong National Security Law

The HKSAR Government spokesman said, "The HKSAR Government strongly opposes the absurd and unfounded contents against the NSL in the US' so-called report. Since the implementation of the NSL in June 2020, the US has been repeatedly exploiting different incidents and occasions, as well as creating excuses, to maliciously slander the NSL and attack Hong Kong in its dutiful, faithful and lawful implementation of the NSL. The US has also deliberately neglected the fact that the implementation of the NSL has enabled the livelihood and economic activities of the Hong Kong community at large to resume as normal and the business environment to be restored. Its bullying act and hypocrisy with double standards are despicable.

"The Standing Committee of the National People's Congress (NPCSC) exercises the power of interpretation in accordance with the relevant provisions of the Constitution of the People's Republic of China and the NSL, which is a fundamental aspect of the 'one country, two systems' principle, and a manifestation of the principle of the rule of law. The legislative interpretation of the NSL given by the NPCSC last year did not directly deal with specific judicial proceedings. Rather, it clarified the meaning of the relevant legal provisions and the basis for application of the law. It did not in any way impair the independent judicial power and the power of final adjudication of the Hong Kong courts as guaranteed by the Basic Law. Through the interpretation of Articles 14 and 47 of the NSL, the NPCSC provided clear guidance for the HKSAR to resolve by itself the controversial question of whether overseas lawyers who are not qualified to practise generally in Hong Kong may be admitted on an ad hoc basis to participate in cases concerning national security.

"The interpretation did not confer additional power on the Chief Executive, and only clarified that Article 47 of the NSL is applicable in handling the controversy concerning overseas lawyers. Owing to the inherent nature of matters concerning national security, the executive authority is in a far better position than the courts to make appropriate judgements. Hence, the courts will afford deference to the judgements made by the executive authority regarding national security matters. This principle is also a general rule for safeguarding national security practised by different places in the world, including in the US. It must be stressed that the certificate issued by the Chief Executive only provides binding certification to the court on the questions stipulated in Article 47 of the NSL. It does not usurp the function of the court in deciding on other issues of the legal proceedings or the adjudication of the case.

"Against the groundless smears in the US' so-called report against the law enforcement actions taken by the HKSAR Government, we seriously reiterate that all law enforcement actions taken by Hong Kong law enforcement agencies under the NSL, or indeed any local laws, 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 political stance, background or occupation.

"Hong Kong is a society underpinned by the rule of law and has always adhered to the principle that laws must be obeyed and lawbreakers be held accountable. Hong Kong's judicial system has always been highly regarded by international communities. The NSL clearly stipulates four categories of offences that endanger national security. So long as people, institutions or organisations strictly observe the laws in Hong Kong, they will not unwittingly violate the law.

"Apart from providing that the principle of the rule of law shall be adhered to, Article 5 of the NSL also provides for the presumption of innocence, the prohibition of double jeopardy, and 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. Moreover, trial by a panel of three judges instead of by a jury under specified circumstances seeks to safeguard rather than undermine the defendants' right to a fair trial, and judges will deliver the reasons for the verdicts to ensure open justice.

"The cardinal importance of safeguarding national security and preventing and suppressing acts endangering national security explains why the NSL introduces more stringent conditions to the grant of bail in relation to offences endangering national security. All bail applications in cases concerning offences endangering national security are handled fairly by the court. It is a matter of fact that a number of defendants have been released on bail after the courts duly considered the requirements stipulated in the NSL and relevant local laws.

"As regards the sedition offence under the Crimes Ordinance, the courts of the HKSAR have ruled in different cases that the provisions relating to sedition are consistent with the relevant provisions of the Basic Law and the Hong Kong Bill of Rights on the protection of human rights, and that a proportionate and reasonable balance has been struck between safeguarding national security and protection of the freedom of speech. It should be reiterated that the offence is not meant to silence

expression of any opinion that is only genuine criticisms against the Government based on objective facts."

The HKSAR Government spokesman seriously reiterated, "The so-called 'sanctions' arbitrarily imposed by the US as mentioned in the US' so-called report smack of despicable political manipulation, grossly interfere in China's internal affairs and Hong Kong affairs, and violate the international law and the basic norms governing international relations. The HKSAR Government despises such so-called 'sanctions' by the US, is not intimidated by such a despicable behaviour, and will resolutely continue to discharge the duty of safeguarding national security."

#### Safeguarding Due Administration of Justice and Rule of Law

The HKSAR Government spokesman pointed out, "The HKSAR Government safeguards independent judicial power and fully supports the Judiciary in exercising its judicial power independently, safeguarding the due administration of justice and the rule of law. Articles 2, 19 and 85 of the Basic Law specifically provide that the HKSAR enjoys independent judicial power, including that of final adjudication, and the courts of the HKSAR shall exercise judicial power independently, free from any interference. Article 92 of the Basic Law also clearly stipulates that judges and other members of the judiciary of the HKSAR shall be chosen on the basis of their judicial and professional qualities. All judges and judicial officers are appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, persons from the legal profession and eminent persons from other sectors. All judges and judicial officers so appointed will continue to abide by the Judicial Oath and administer justice in full accordance with the law, without fear or favour, self-interest or deceit. Establishing the mechanism for safeguarding national security in the HKSAR will not undermine the independent judicial power. Our judicial system continues to be protected by the Basic Law. When adjudicating cases concerning offence endangering national security, as in any other cases, judges remain independent and impartial in performing their judicial duties, free from any interference.

"The Department of Justice controls criminal prosecutions, free from any interference by virtue of Article 63 of the Basic Law. All prosecutorial decisions are based on an objective analysis of all admissible evidence and applicable laws.

"The Judiciary exercises judicial power independently in accordance with the law, and everyone charged with a criminal offence has the right to a fair hearing. The courts decide cases strictly in accordance with the evidence and all applicable laws. Cases will never be handled any differently owing to the profession, political beliefs or background of the persons involved. The prosecution has the burden to prove beyond reasonable doubt the commission of an offence before a defendant may be convicted by the court."

#### Rights and Freedoms

The HKSAR Government spokesman said, "The HKSAR Government steadfastly safeguards the rights and freedoms enjoyed by Hong Kong people as protected under the law. Since Hong Kong's return to the motherland, human rights in the city have

always been robustly guaranteed constitutionally by both the Constitution and the Basic Law. Also, the NSL clearly stipulates that human rights shall be respected and protected in safeguarding national security in the HKSAR, and that the rights and freedoms, including the freedoms of speech, of the press, of publication, of association, of assembly, of procession and of demonstration, that 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 the law. Nonetheless, such rights and freedoms are not absolute. The ICCPR also expressly states that some of them may be subject to restrictions as prescribed by law that are necessary for protection of national security, public safety, public order or the rights and freedoms of others, etc.

"Since the implementation of the NSL, the media landscape in Hong Kong remains vibrant. As always, the media can exercise their right to monitor the HKSAR Government's work. Their freedom of commenting and criticising government policies, which takes place as a matter of routine, remains uninhibited as long as they are not in violation of the law."

The spokesman stressed, "The legal basis for implementing 'one country, two systems' comprises the Constitution and the Basic Law, which provide 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 independent judicial power. The HKSAR Government will continue to fully, faithfully and resolutely implement the principles of 'one country, two systems', 'Hong Kong people administering Hong Kong' and a high degree of autonomy in accordance with the Constitution and the Basic Law to ensure the long-term stability and prosperity of Hong Kong."

Ends/Saturday, April 1, 2023