

HKSAR Government strongly disapproves and firmly rejects the UK Six-monthly Report on Hong Kong

The Hong Kong Special Administrative Region (HKSAR) Government today (May 25) vehemently refuted, strongly disapproved and firmly rejected the slandering remarks and ill-intentioned political attacks on the HKSAR under the successful application of the "one country, two systems" principle in the so-called United Kingdom Six-monthly Report on Hong Kong: July to December 2022 (Report). The HKSAR is an inalienable part of the People's Republic of China. The HKSAR Government urges again the United Kingdom (UK) to respect the international law and basic norms governing international relations and stop interfering in Hong Kong matters, which are purely China's internal affairs.

Improved Electoral System Implementing "Patriots Administering Hong Kong"

A spokesman for the HKSAR Government stressed, "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 2022 Legislative Council (LegCo) Election Committee Constituency (ECC) by-election was successfully held by the HKSAR Government on December 18, 2022 in strict accordance with the electoral laws of the HKSAR in an open, fair and honest manner.

"The new electoral system has established the LegCo ECC, which goes beyond the vested interests of various groups and districts, broadened the representation in the political structure of Hong Kong in a balanced and orderly manner, thereby enhancing the HKSAR's governance efficiency. 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. Since assuming office, the seventh-term LegCo has, by way of its rational and constructive interaction with the executive authorities, fully manifested the spirit of 'patriots administering Hong Kong' through checks and balances as well as mutual cooperation, while a spectrum of different voices in the legislature steadfastly upheld the overall interests of Hong Kong, exemplifying quality democracy."

Safeguarding National Security

The spokesman for the HKSAR Government said, "National security is a matter within the purview of the Central Authorities. It is the responsibility and right of every country to safeguard its national security. The UK also has many laws on national security. The HKSAR Government firmly opposes the UK's repeated malicious slander against the Hong Kong National Security Law (NSL) in attempts of interfering in Hong Kong's law-based governance and undermining the rule of law of Hong Kong in the so-called Report. The HKSAR Government also strongly disapproves of their ignorance of 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. It should be stressed that the NSL was enacted to restore the enjoyment of rights and freedoms which many people in the HKSAR had been unable to enjoy during the period of serious violence between June 2019 and early 2020. The Law has indeed achieved the intended effect, and has swiftly and effectively restored stability and security. These are incontrovertible facts shared by the experiences of people living and businesses operating here in Hong Kong.

"Against the repeated groundless smears in the UK' 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 people, institutions or organisations concerned, and have nothing to do with their political stance, background or occupation.

"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.

"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 in accordance with Article 46 of the NSL 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. As a matter of fact, in order to safeguard national security, legislation is in place in Northern Ireland of the UK which authorises the prosecutorial authority to issue certificates so that certain types of cases must be tried by a judge without a jury.

"The sentencing regime for offences under the NSL seeks to effectively prevent, suppress and impose punishment for acts and activities endangering national security. There are precedents in common law jurisdictions to prescribe mandatory sentencing regimes under statutes in respect specific types of offences. In the UK, there is legislation that prescribes mandatory sentencing regimes for certain offences that pose more serious harm to society or are prevalent."

Safeguarding Due Administration of Justice and Rule of Law

"Hong Kong is a society underpinned by the rule of law. Article 25 of the Basic Law provides that all Hong Kong residents shall be equal before the law. Cases will never be handled any differently owing to the profession, political beliefs or background of the persons involved. The suggestion that individuals or organisations with certain backgrounds should be immune from legal sanctions for their illegal acts and activities is tantamount to granting such individuals or organisations privileges to break the law, and is totally contrary to the spirit of the rule of law.

"The Department of Justice (DoJ) of the HKSAR, by virtue of Article 63 of the Basic Law, controls criminal prosecutions, free from any interference. Independent prosecutorial decisions for each case are made in a rigorous and objective manner, strictly based on evidence and applicable laws and are in accordance with the Prosecution Code. Prosecutions would be instituted by the DoJ only if there is

sufficient admissible evidence to support a reasonable prospect of conviction, and if it is in the public interest to do so.

"As guaranteed under the Basic Law and the Hong Kong Bill of Rights, defendants charged with criminal offences shall have the right to a fair trial by an independent judiciary. Article 85 of the Basic Law clearly stipulates that the courts of the HKSAR shall exercise judicial power independently, free from any interference. In all criminal trials, the prosecution has to prove beyond reasonable doubt before the defendant can be convicted, and the defendant has the right to appeal under the law.

"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 UK. 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.

"In the UK, there is simply no regime for ad hoc admission of overseas lawyers

similar to that in Hong Kong, not to mention any regime which allows overseas lawyers who are not qualified to practice generally there to handle national security cases. Any comment on the case of the overseas lawyer's application for ad hoc admission is a paradigm case of double standards and hypocrisy."

Rights and Freedoms

The spokesman for the HKSAR Government reiterated, "Hong Kong residents enjoy the rights and freedoms under the Basic Law, the Hong Kong Bill of Rights Ordinance and other relevant laws. The NSL clearly stipulates that human rights shall be respected and protected in safeguarding national security in the HKSAR and the rights and freedoms that Hong Kong 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, including the freedom of speech and of the press, etc. shall be protected in accordance with the law. However, such rights and freedoms are not absolute. The exercise of such freedom 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.

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

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