

HKSAR Government strongly disapproves of and firmly rejects UK six-monthly report on Hong Kong

The Government of the Hong Kong Special Administrative Region (HKSAR) today (September 19) strongly disapproved of and firmly rejected the groundless attacks, slanders and smears against the HKSAR in the so-called six-monthly report on Hong Kong: January to June 2023 of the United Kingdom (UK) in respect of the reform of District Councils (DCs), the implementation of the Hong Kong National Security Law (NSL), the protection of the human rights, etc, in Hong Kong.

A spokesman for the HKSAR Government said, "The HKSAR Government strongly disapproves of and firmly rejects the UK's attempt through a so-called six-monthly report again to make misleading and irresponsible remarks about Hong Kong matters. The UK's manoeuvre with politics prevailing over law-based administration is glaringly obvious. The HKSAR is an inalienable part of the People's Republic of China, 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. The HKSAR Government strongly urges the UK again to discern facts from fallacies, respect the international law and basic norms governing international relations, and immediately stop interfering in Hong Kong matters, which are purely China's internal affairs."

Improved electoral system and reform of DCs

The HKSAR Government spokesman said, "The improved electoral system of the HKSAR puts in place legal safeguards to ensure the 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.

"The HKSAR Government strongly refutes the UK's fallacious remarks about the reform of DCs in the so-called report. In order to put an end to the chaos of the

sixth-term DCs and restore DCs to the right track, it is necessary and urgent to reform DCs. Any description of the DCs being part of the democratic process of the HKSAR is a complete misinterpretation of the intent of the Basic Law. The purpose of improving district governance is to enhance the functions of DCs and reform their composition, so that DCs can return to the positioning under Article 97 of the Basic Law, which are advisory and service bodies that are not organs of political power to be consulted by the HKSAR Government on district administration and other affairs. Reforming DCs is an integral part of improving district governance. Having a variety of methods for the formation of DCs enables people who love the country, have an affection for Hong Kong and are dedicated to serving their districts to participate in the work of DCs through a variety of channels, thereby reflecting public opinion more comprehensively and accurately. The District Councils (Amendment) Ordinance 2023 was published in the Gazette and came into effect on July 10 this year, enabling the principle of 'patriots administering Hong Kong' to be fully implemented at the district governance level of the HKSAR as well. The seventh-term DCs will strictly adhere to the positioning under the Basic Law to carry out advisory and services functions, duly contribute to the HKSAR's district governance work, and effectively respond to the expectations of the public."

Safeguarding national security

The HKSAR Government spokesman stressed, "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 HKSAR Government strongly disapproves of the UK turning a blind eye to 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. The successful promulgation and implementation of the NSL have restored the enjoyment of rights and freedoms which many Hong Kong people were unable to enjoy during the period of serious violence and Hong Kong version of 'colour revolution' between June 2019 and early 2020, and have swiftly and effectively restored stability and security in Hong Kong. It is incontrovertible that people living, and businesses operating, in Hong Kong have experienced the major transition from chaos to order.

"The UK has recently passed the National Security Act, which has introduced various offences including modernised espionage offences and offence of foreign interference with extra-territorial effect, created a foreign activities and foreign influence registration scheme, and granted the law enforcement authorities a wide

range of powers to take prevention and investigation measures. The UK has no right and no qualification to make scandalous accusations against the measures taken by the Central Authorities and the HKSAR Government to safeguard national security when it just does the very same thing.

"With the implementation of the NSL over the past three years or so, the HKSAR has been fulfilling the responsibility of safeguarding national security in accordance with the law and earnestly upholding the principle that laws must be obeyed and lawbreakers held accountable. The HKSAR law enforcement agencies have been taking law enforcement actions based on evidence and strictly in accordance with the law in respect of the acts of the persons or entities concerned. 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. 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 also reiterates that it is a common practice of the Hong Kong Police Force and other law enforcement agencies to release information of fugitive offenders who have allegedly committed serious offences and are wanted, and appeal to members of the public to assist in bringing fugitive offenders to justice. This is also squarely in line with the international practice.

"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.

"Furthermore, the HKSAR Government reiterates that the Legal Practitioners (Amendment) Ordinance 2023 aims to handle matters concerning the participation of

overseas lawyers who are not qualified to practise generally in the HKSAR in cases concerning national security in an appropriate manner, so as to effectively address the potential national security risks associated with the participation of such lawyers in such cases, in line with the spirit of the interpretation by the Standing Committee of the National People's Congress (NPCSC) of Articles 14 and 47 of the NSL on December 30, 2022.

"The 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. We must stress 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.

"The right to choice of lawyers is protected by the Basic Law, and it is well-established by case law that such a choice means a right to choose lawyers who are available and entitled to practise, and not overseas lawyers who are not qualified to practise. As a matter of fact, 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 practise generally there to handle national security cases. Any remark that the relevant ordinance qualifies the right to choice of lawyers is not only hypocrisy, but also manifestly without a sound legal basis."

Safeguarding due administration of justice and rule of law

The HKSAR Government spokesman pointed out, "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. Article 85 of the Basic Law clearly stipulates that the Judiciary shall exercise judicial power independently in accordance with the law, free from any interference. As guaranteed by the Basic Law and the Hong Kong Bill of Rights, everyone charged with a criminal offence has the right to a fair hearing.

"The Department of Justice of the HKSAR is in charge of criminal prosecutions under Article 63 of the Basic Law, with all prosecution decisions made based on an objective analysis of all admissible evidence and applicable laws. The Judiciary of the HKSAR 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."

Safeguarding rights and freedoms

The HKSAR Government spokesman said, "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, of the press, of publication, of association and of assembly, shall be protected in accordance with the law. However, such rights and

freedoms are not absolute. The exercise of such rights 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 remained vibrant. As always, the media can exercise their freedom of the press in accordance with the law. Their freedom of commenting on and criticising government policies remains uninhibited as long as this is not in violation of the law."

Maintaining long-term prosperity and stability

The HKSAR Government spokesman reiterated, "Under the 'one country, two systems' principle, Hong Kong has the distinctive advantage of enjoying strong support of the motherland and being closely connected to the world. With the unparalleled connectivity to the Mainland and the rest of the world, Hong Kong has great potential and boundless prospects along the new journey of the new era. As the centre of economic gravity in the world is shifting eastward, the Mainland, along with other fast-growing economies in the region, will be a major engine of global economic growth and a source of ample economic opportunities. Hong Kong will continue to play its unique role as a gateway and intermediary, with a view to reaping the enormous benefits of this trend and seizing the abundant development opportunities ahead. With the strong support of the motherland, and the wide room for development brought about by national strategies including the National 14th Five-Year Plan, the Guangdong-Hong Kong-Macao Greater Bay Area development and the high-quality development of the Belt and Road Initiative, Hong Kong embraces unlimited business opportunities. The HKSAR Government will continue to create strong impetus for growth at full steam, forge a better integration of a capable government and an efficient market, and proactively compete for enterprises and talent to strengthen the city's competitiveness, with a view to steadily advancing from stability to prosperity in the new phase, breaking new grounds and achieving another leap forward."

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