

Annex C

Related Resources

1. Key government documents
 2. Hong Kong Bar Association statements
 3. Statements by international human rights experts
 4. Explainers and timelines
 5. Books and book chapters
 6. Websites and blogs
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1. Key government documents

The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region:

EN: <https://www.gld.gov.hk/egazette/pdf/20202448e/egn2020244872.pdf>,

CH: <https://www.elegislation.gov.hk/hk/A406>

Implementation Rules for Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, July 6, 2020:

EN: <https://www.info.gov.hk/gia/general/202007/06/P2020070600784.htm>,

CH: <https://www.info.gov.hk/gia/general/202007/06/P2020070600748.htm>

Operating Principles and Guidelines for Application for Authorization to Conduct Interception and Covert Surveillance--Issued Pursuant to Section 20 of Schedule 6 of the Implementation Rules for Article 43 of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region:

EN: <https://www.gld.gov.hk/egazette/pdf/20202450e/egn2020245074.pdf>,

CH: <https://www.gld.gov.hk/egazette/pdf/20202450e/cgn2020245074.pdf>

The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China:

EN: <https://www.basiclaw.gov.hk/en/basiclawtext/index.html>,

CH: <https://www.basiclaw.gov.hk/tc/basiclawtext/index.html>

[Statement by Chief Justice of Court of Final Appeal](https://www.info.gov.hk/gia/general/202007/02/P2020070200414.htm) (on NSL, Art. 44), July 2, 2020.

<https://www.info.gov.hk/gia/general/202007/02/P2020070200414.htm>

Chief Justice Geoffrey Ma Tao-li states: “Under Article 44, the Chief Executive shall designate judges at each level of court to handle cases and appeals in relation to the National Security Law. . . . It is important to bear in mind that as far as the designation of judges and the operation of the courts are concerned, these two aspects must be subject to the requirements of the Basic Law. . . . Appointments of judges under Article 88 of the Basic Law are made by the Chief Executive on the recommendation of the Judicial

Officers Recommendation Commission, which is chaired by the Chief Justice. This has always been the position in Hong Kong.”

2. Hong Kong Bar Association statements

[Statement of the Hong Kong Bar Association on the Hong Kong Government's Decision to Postpone the Legislative Council Election](https://www.hkba.org/sites/default/files/20200802_HK_Government_Decision_to_Postpone_the_Legislative_Council_Election_%28Eng%29.pdf), August 2, 2020.

[https://www.hkba.org/sites/default/files/20200802 - HK Government Decision to Postpone the Legislative Council Election %28Eng%29.pdf](https://www.hkba.org/sites/default/files/20200802_HK_Government_Decision_to_Postpone_the_Legislative_Council_Election_%28Eng%29.pdf)

The HKBA raises serious doubts about the legal and evidential basis of the Hong Kong government’s decision, citing public health risks, to postpone the LegCo election by one year instead of a shorter period, and without consulting civil society. The statement highlights that “international human rights experts have repeatedly warned that governments must not use COVID-19 as a pretext to suppress human rights.”

[Statement of the Hong Kong Bar Association on the Law of the People’s Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region](https://www.hkba.org/sites/default/files/20200701_HKBA_statement_on_Safeguarding_National_Security_in_HKSAR.pdf), July 1, 2020.

[https://www.hkba.org/sites/default/files/20200701 HKBA statement on Safeguarding National Security in HKSAR.pdf](https://www.hkba.org/sites/default/files/20200701_HKBA_statement_on_Safeguarding_National_Security_in_HKSAR.pdf)

The HKBA expresses grave concerns regarding the NSL: provisions that are inconsistent with the *Basic Law*, the lack of meaningful public consultation before its promulgation, and the absence of a legally authoritative English version. These and other factors, the HKBA states, “operate to erode the high degree of autonomy guaranteed to the HKSAR under the Basic Law and Sino-British Joint Declaration, and to undermine core pillars of the One Country Two Systems model.”

3. Statements by international human rights experts

Seven UN experts’ communication to China urging review and reconsideration of National Security Law to comply with international law, September 1, 2020: [EN:](https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25487)

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25487>

Seven UN Special Procedures mandate-holders highlight the NSL’s vague and overbroad provisions and the lack of transparency and accountability of the NSL security entities. They urge the Chinese government to review and reconsider the NSL to ensure China’s compliance with international human rights obligations in respect of Hong Kong under the UDHR, ICCPR, the *1984 Sino-British Joint Declaration*, and the *Basic Law*.

Statement by Spokesperson for the UN High Commissioner for Human Rights on the National Security Law, July 3, 2020:

[EN:](#)

<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26033&LangID=E>,

[CH:](#)

<https://www.ohchr.org/CH/NewsEvents/Pages/DisplayNews.aspx?NewsID=26033&LangID=C>

The spokesperson states: “We are alarmed that arrests are already made under the [NSL] . . . when there is not full information and understanding of the scope of the offences.” Among the concerns expressed are the vague and overly broad definition of the offenses which “may lead to discriminatory or arbitrary interpretation and enforcement”; and the “collusion” offense which “may lead to a restriction of civic space and of the possibility for civil society actors to exercise their right to participate in public affairs.”

4. Explainers and timelines

[“Transforming Hong Kong: 100 days of the National Security Law”](#)

Mercator Institute for China Studies, October 7, 2020.

<https://merics.org/en/graphic/transforming-hong-kong-100-days-national-security-law>

A brief timeline that maps the developments during July 1–October 1, highlighting the actions of governments of the People’s Republic of China and the Hong Kong SAR as well as those in the opposition movement, civil society, courts and the legal sector, diplomatic and international community, and the business and financial sector.

[“Explainer: How Beijing’s security law transformed Hong Kong – month 3”](#)

Hong Kong Free Press, September 30, 2020.

<https://hongkongfp.com/2020/09/30/explainer-how-beijings-security-law-transformed-hong-kong-month-3/>

Maps key developments including the detention of the “Hong Kong 12,” UN human rights experts’ communications expressing concerns about the NSL’s violations of international legal obligations, and the NSL’s impact on press freedom.

[“Hong Kong national security law: 26 arrests so far, resignation of a foreign judge, and suspension of a middle school pupil mark third month”](#)

South China Morning Post, September 30, 2020.

<https://www.scmp.com/news/hong-kong/politics/article/3103600/hong-kong-national-security-law-26-arrests-so-far>

In the third month of the NSL, Justice James Spigelman, a non-permanent foreign judge on the Court of Final Appeal, resigned two years before schedule due to “the content of the national security legislation”; while a middle school pupil was suspended after using

a profile picture with the protest slogan “Liberate Hong Kong; revolution of our times” in an online class.

[“How Hong Kong’s national security law compares to Macau’s: different reasons, eras for legislation”](#)

South China Morning Post, July 8, 2020.

<https://www.scmp.com/news/hong-kong/politics/article/3092215/national-security-tale-two-cities-how-different-reasons-and>

Covers developments during September, including the resignation of an Australian veteran judge of the Court of Final Appeal, the arrest of activist Tam Tak-chi by the national security unit under the sedition law, and Chief Secretary Matthew Cheung Kin-chung’s defense of the NSL at the 45th Session of the UN Human Rights Council.

[Arrests and trials of Hong Kong protesters](#)

Compiled by author Kong Tsung-gan.

<https://medium.com/@KongTsungGan/arrests-and-trials-of-hong-kong-protesters-2019-9d9a601d4950>

Tracks the total number of protesters arrested and prosecuted since August 2019, with the names and brief information of those arrested. Updated frequently.

5. Books and book chapters

Cora Chan and Fiona de Londras, eds., *China's National Security: Endangering Hong Kong's Rule of Law?*, Hart Publishing, March 2020.

A collection of 17 essays by legal experts including Albert Chen, Hualing Fu, Johannes Chan, Michael C. Davis, and Simon Young. In their introductory essay, “China’s National Security in Hong Kong: A Challenge for Constitutionalism, Autonomy and the Rule of Law,” Chan and de Londras articulate a vision for sustainable security in Hong Kong. They propose the construction of a new institutional architecture that is rights-based and addresses rule of law concerns aimed at achieving four key aims: effectiveness, accountability, transparency, and participation. In this new architecture, Chan and Londras urge the inclusion of features including limiting the National People’s Congress Standing Committee’s powers to interpret the *Basic Law*, universal suffrage for election of Chief Executive and LegCo, a human rights institution for Hong Kong, and so on.

Michael C. Davis, *Making Hong Kong China: The Rollback of Human Rights and the Rule of Law*, Association for Asian Studies, October 2020. (Read opening chapter at: <https://www.demdigest.org/making-hong-kong-china/>)

The book traces the loss of Hong Kong's autonomy from the handover forward, highlighting the root causes, evolving erosion and eventual assault on the rule of law and basic freedoms, as reflected in the 2019 crackdown on protesters and the current imposition of the *National Security Law*.

Hualing Fu, “National Security Law: Challenges and Prospects,” in Johannes Chan and C.L. Lim, eds., *Law of the Hong Kong Constitution*, 3rd edition, Sweet & Maxwell Asia Ltd, forthcoming in 2021.

Fu examines the status of the NSL compared with that of the *Basic Law*, the offenses it targets, and the new entities it created and their powers. Fu concludes: “It would be hard to overstate the constitutional significance of the NSL as regards the Basic Law for through this piece of legislation the CPG has gained bridgehead inside the Hong Kong legal system to exert a comprehensive control. . . . The NSL poses a challenge to Hong Kong with the potential to undermine the OCTS. Yet the NSL also creates the possibility of its own limitations, allowing it to operate under the constraints of the existing constitutional framework.”

Hualing Fu, “China’s Imperatives for National Security Legislation,” in Cora Chan and Fiona de Londras, eds., *China’s National Security: Endangering Hong Kong’s Rule of Law?*, Hart Publishing, March 2020

Fu discusses China’s new national security regime underpinned by legality and the creation of a new legal framework to securitize the Chinese state, including Hong Kong. Fu posits how Hong Kong is seen as a national security risk by China especially with the sudden rise of a secessionist movement and localism in recent times. Writing before the enactment of the NSL in Hong Kong, Fu highlights how the introduction of a national security legislation in Hong Kong is one of many options to address prevailing security concerns, but one that potentially has significant impact on rights and freedoms of Hong Kong.

6. Websites and blogs

[NPC Observer](#)

<https://npcobserver.com/2020/06/30/legislation-summary-hong-kong-national-security-law/>

Covering legislative developments of the National People’s Congress and its Standing Committee with a summary of Hong Kong’s *National Security Law*.

[Jerome A. Cohen’s blog](#)

<http://www.jeromecohen.net/jerrys-blog?offset=1597258389940>

On recent developments on the rule of law in Asia and China, including a series of articles on Hong Kong under the *National Security Law*.