

EAST ASIA

CELINE LAU

SPOTLIGHT ON HONG KONG'S NEW NATIONAL SECURITY LAW

Passed by Beijing on the June 30, The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region creates four new offences in Hong Kong: secession, subversion, terrorism and collusion with foreign forces to endanger national security. These offences are broadly worded and have been widely condemned as chokeholds on political freedoms and Hong Kong's pro-democracy movement.

SUMMARY OF NEW OFFENCES

Acts of **secession** (Articles 20–21) include organising, planning, or participating in, 'whether or not by force or threat of force':

- the **separation** of Hong Kong or any other part of the People's Republic of China (PRC) from the PRC;
- the 'unlawful' **alteration** of Hong Kong's legal status; or
- the **surrendering** of Hong Kong, or any other part of the PRC, to a foreign country.

Subversion (Articles 22–23) includes participating, planning or implementing acts that subvert State power, such as:

- '**overthrowing**' or 'undermining' the basic system of government in the PRC;
- 'seriously **interfering**' with State organs' lawful exercise of powers; or
- 'attacking or **damaging**' the premises used by Hong Kong governing bodies to the extent that its normal duties cannot be performed.

This final clause was likely inspired by the barricading of the Legislative Council and the defacing of the PRC flag in July last year.



Hong Kong extradition bill protests, 2019 – Studio Incendo (flickr.com)

On the other hand, **terrorist activities** (Articles 24–28) are acts that cause, or intend to cause, '**grave harm**' to society with the goal of 'coercing' the PRC, the Hong Kong government, international organisations or the public to pursue a particular political agenda. Terrorist acts listed include: serious violence against persons; dissemination of poisonous, radioactive or pathogenic substances; serious interruption or sabotaging public infrastructure (transport, electricity, gas, water, communications facilities); and other activities that 'jeopardise public health, safety or security'.

Finally, **collusion with foreign countries** or forces (Articles 29–30) includes:

- **procuring** (by stealing, spying or bribing) and **providing State intelligence** to foreign entities outside the PRC; and

- **requesting** a foreign country or institution to commit to the use of force against China or sanctions, or otherwise encourage hatred among Hong Kong residents towards the PRC government.

Those convicted under the new law face a minimum of three years in prison, while 'serious' offenders could be imprisoned for at least ten years and up to life.

ENFORCEMENT

A National Security Office (NSO) will be established in Hong Kong to oversee the enforcement of the new law. Heading the new office will be experienced Guangdong official, Zheng Yanxiong, who is a fluent Cantonese speaker and has an extensive background in propaganda.

The NSO will be empowered to collect intelligence and process cases. Notably, the office is not constrained by the city's legal jurisdiction and has wide authority to compel cooperation from Hong Kong government departments.

CRITICISMS

A number of criticisms have been levied against the new law, among which include:

- *Inconsistencies with existing policies and law:* Despite the city's official language policy granting equal weight between Chinese and English, the Hong Kong government has confirmed that the Chinese version of the national security law will prevail over the English translation in the event of any inconsistencies.
- *Eroding judicial independence:* Article 44 enables the Chief Executive to select judges and magistrates to adjudicate national security cases.
- *Extraterritoriality:* According to Article 38, non-Hong Kong residents can be charged with offences committed outside of Hong Kong.

Hong Kong's new national security law has already been invoked in numerous arrests in the territory. While the city's top officials are reassuring Hong Kong residents that their fundamental freedoms,

including the right to criticise the government, will not be affected, the passage of the new law has nonetheless sparked fears of persecution.