

SEIZING THE MOMENT: MAINLAND CHINA'S AUTHORITARIAN GRIP ON HONG KONG

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At the end of May, the 13th National People's Congress introduced a controversial security law, aimed to prevent "secession, subversion, terrorism, and foreign interference" in Hong Kong. The legislation was swiftly finalized in deep secrecy, and on June 30, one day before the anniversary of Hong Kong's handover to China, Xi Jinping signed the provision. Unlike the failed attempts to introduce pro-Beijing security regulations in 2003 or 2019, the new law could be considered the most blatantly suppressive attempt of the mainland government to restrict the freedoms of Hong Kong with both legislative and structural means. Comprised of over sixty articles, the law grants the People's Republic of China authorities the right to apply a wide range of punishments to those who oppose and criticize the government's actions. Furthermore, the classification of anti-PRC actions remains partially vague, enabling to prosecute Hong Kong's pro-democracy activists for [any](#) type of self-expression.

Most importantly, however, it is debatable whether the NPC could legitimately pass such legislation in the first place. The reason for such ambiguity lies in the PRC's decision to [disregard the Sino-British](#)

[Joint Declaration \(1985\)](#), which originated as the main legal document for setting out arrangements regarding Hong Kong's status. While the UK continues to consider the treaty to be legally valid, China does not wish to adhere to this vision, claiming the Declaration to be simply a historical document with no practical significance. So, the 1997 "one state, two systems" policy, established in the 1985 treaty and set to last until 2047, guarantees the preservation of the region's distinct economic and legal systems unless specified otherwise in [Annex III](#) of Hong Kong's mini-constitution, the Basic Law. The newly introduced extensive security measures, however, do not fall under the content of the above-mentioned part of Hong Kong's constitution, and neither can they be forced upon the region by the National People's Congress. This is because [Article 23](#) of the Basic Law outlines that Hong Kong's domestic security matters, although mandatory to implement, should be subject to regional and not national policy-making. Therefore, the clash between the interpretations of the 1985 international treaty gives the mainland government a chance to proceed with diminishing Hong Kong's sovereign rule even before the expiration of the agreement in 2047.

Historically, mainland China has not been fond of Hong Kong allowing civil liberties within a unique judicial system, which enables the autonomous region to preserve a drastically different socio-economic order compared to the rest of the country. Even after the formal end of the British rule in 1997 and reversion to Chinese sovereignty, Hong Kong still employs the common law system and has a de-facto constitution. Moreover, the city residents continuously push the local government to introduce direct elections for executive positions which are purposefully kept under the control of the Communist Party of China and organize mass demonstrations against PRC's authoritarian measures, hoping to achieve further independence from the mainland. In response, the mainland government has been trying to get a firmer grip on Hong Kong under the excuse of introducing fierce security laws, similar to

the ones enacted over the PRC's territories. Referring to [Article 23](#) of the Basic Law which obliges the region to enact threat-preventive regulations against jeopardizing the rule of the Central People's Government (CPG), the 2003 National Security Bill was the first significant attempt to transfer more power over Hong Kong's domestic security to Beijing. However, public dissatisfaction with the proposal overpowered the fear of SARS outbreak: in the end, demonstrations forced the regional government to shelve the security matter. Last year, a similar scenario occurred with the Fugitive Offenders Ordinance amendment (a.k.a. the 2019 Hong Kong Extradition Bill), which meant to grant the mainland authorities more power over criminal justice. Once again, blazing protests became the main reason why the bill was withdrawn. This time, however, such a strong anti-CPG reaction and the acute rise of the pro-democracy movement provoked a ruthless response from the mainland. Now, Hong Kong's hands are tied because the new law was imposed under [Article 18](#) of the Basic Law, which confirms that the National Congress holds the right to legislate over matters of defense and international affairs.

Mainly, the content of the [new legislation](#) pinpoints the following regulations:

- Requiring the city authorities to prevent actions and activities which threaten China's national security;
- Requiring the three branches of Hong Kong's government (judicial, legislative, and executive) to stop any anti-governmental activities;
- Banishing foreign actors and organizations from intervening in/meddling with Hong Kong's and China's domestic affairs;
- Introducing severe punishments for security-threatening crimes, up to life imprisonment;
- Establishing an office of the Ministry of State Security (read: the state intelligence) in the region with full impunity ([opened](#) a week after the law was passed);

- Establishing a new fully mainland-controlled body, Office for Safeguarding National Security in Hong Kong, for the sole purpose of overseeing the domestic affairs;
- Granting the NPC full authority to legislate over national security in Hong Kong;
- Requiring the city authorities to report on the progress of prevention measures to the mainland government;

The reforms clearly demonstrate an expansion of the mainland's authority over Hong Kong's inner affairs, yet also suggest potential issues with the government's accountability. Firstly, Articles 41, 44, and 46 nurture a legal bias, allowing trials to be held secretly and without the jury's presence, as well as granting the Hong Kong's chief executives the right to pick judges for particular cases. Moreover, some of the provisions contain vague phrasing, such as Article 29, that could enable the mainland authorities to file cases against a large scope of misdemeanors. The article condemns "provoking <...> hatred among Hong Kong residents towards the Central People's Government or the Government of the Region", while it is rather hard to assess what is considered "hatred" and what would be counted for its expression. Also, Article 55 delegates the mainland authorities to investigate "complex" and "serious" matters without clarifying which are deemed to be such, thus letting the PRC take control over nearly any case.

Practically speaking, under the new law, any anti-Beijing comments or actions could be classified as espionage or terrorism. As one can imagine, such overwhelming control from the mainland would be employed mainly for penalizing those who have previously taken part in protests or continues to oppose China's rule in any shape or form, ceasing the freedom of speech. For instance, Professor Johannes Chan, a legal scholar at the University of Hong Kong, [expressed concerns](#) over the security law's invasiveness, stating that it is likely to distort the region's judicial system, making it resemble the mainland's one. Thus, Hong Kong's unique common law

jurisdiction might be instinct over the following years. Additionally, according to Charles Low, the chairman of the Internet Society non-profit organization, the new regulations showed that the fears regarding the [extension of the "Great Firewall" to Hong Kong](#) are coming true, thus further jeopardizing the residents' freedom of expression and access to information.

Another dreadful outcome of forcing Hong Kong to play by the PRC's rules is hampering affairs with foreign countries and thus losing the reputation of Asia's financial hub. With around 80% of Hong Kong's exports heading outside China, this could result in a sharp decline in the city's economy. For example, the USA, one of Hong Kong's main economic partners, already revised the trading regulations, as the US-Hong Kong Policy Act only remains active under the condition of Hong Kong preserving independence from mainland China in all aspects but foreign political and military power. Two days after the law was enacted, the USA [introduced sanctions](#) for banks that do business with Chinese officials. Also, with the threat to the freedom of Internet use, TikTok has already announced it would cease operating in Hong Kong, so now Apple, Google, and other major companies are pressured to decide on whether to follow the same path. As the chances of them withdrawing from the city are not trivial, Hong Kong is risking losing its reputation of a telecom hub in the region. Lastly, fearing dangerous repercussions from the anti-free speech regulations, prominent media outlets shifted their offices from Hong Kong to neighboring states. So far, The New York Times, The Wall Street Journal, the AFP, and some others have [relocated their personnel](#) for safety reasons. Thus, the new legislature not only puts civil rights and freedoms in danger but also hinders the financial prosperity of the region.

Overall, the situation appears to be highly concerning and complex to resolve in Hong Kong's favor. As previously mentioned, over the last two decades, the Hong Kong population has relied on mass protests to combat mainland China's predatory attempts to seize the region's sovereignty. However, the Covid-19 setting (especially the

[recent outbreak](#)) does not quite allow to repeat the scenarios of 2003 or 2019. Not only the quarantine regulations prohibit public gatherings, but also the police were instructed to [brutally suppress emerging unrests](#) and detains anyone who showcases pro-independence views. Nonetheless, the Hong Kong residents are hopeful about eventually gaining their freedom back. Unable to voice their noncompliance literally, over 600,000 people went to cast their vote in the primary elections last week. Unsurprisingly, [the majority delegated pro-democracy candidates](#), who have shown support for the mass demonstrations, to run in the official Hong Kong Legislative Council election in September. Therefore, there is a glimpse of hope that the pro-democracy camp would receive a sufficient number of seats in the council to be able to initiate a change from within the system.