

6 July, 2020

The Editor
Lawyers Weekly
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Dear Editor,

I refer to the article "Australia 'gravely concerned' about Hong Kong's national security law" on 1 July, 2020.

The Standing Committee of the National People's Congress (NPCSC) passed on 30 June, 2020 a law on safeguarding national security in the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China (the Law). Safeguarding national sovereignty, security and development interests is the constitutional duty of the HKSAR and concerns every Hong Kong citizen.

Safeguarding national security by way of legislation is an international practice. It is apparent that every country has its own national security laws and relevant enforcement agencies. It is the fundamental duty of every responsible government to have such laws.

The HKSAR is an inalienable part of the People's Republic of China, and a local administrative region which enjoys a high degree of autonomy and comes directly under the Central People's Government. In view of the increasingly pronounced national security risks faced by the HKSAR, the enactment of a national security law at the state level is both necessary and urgent in order to plug the loophole in national security in Hong Kong.

The Law is an important step to fully implement the Basic Law, strengthen implementation of the "One Country, Two Systems" principle, and restore stability in Hong Kong as soon as possible. It is a national law enacted by the NPCSC establishing at the state level the legal framework and enforcement mechanisms for Hong Kong to safeguard national security. Pursuant to Article 6 of the Decision of the National People's Congress (NPC) on establishing and improving the legal system and enforcement mechanisms for the HKSAR to safeguard national security adopted on 28 May, 2020 (Decision), the Law enacted by the NPCSC has been added to Annex III of the Basic Law after consulting its Basic Law Committee for the HKSAR and the HKSAR Government. It has applied locally by way of promulgation by the HKSAR with effect from 30 June, 2020 (at 11:00 pm).

In concrete terms, the Law only targets four types of acts and activities that endanger national security, namely, secession, subversion of state power, organising and carrying out terrorist activities, and collusion with foreign or external forces to endanger national security. The clear provisions of the Law will therefore only target an extremely small minority of offenders who breach the provisions on these four specific offences, while the life and property as well as basic rights and freedoms of the overwhelming majority of Hong Kong residents, including overseas investors, will be protected.

Of note is that the Law stipulates very clearly that the various rights and freedoms, including the freedoms of speech, of the press, of publication, of association, of assembly, of procession and of demonstration, which the HKSAR 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, shall be protected in accordance with the Law. It will not affect the legitimate rights and freedoms enjoyed by Hong Kong residents. It also highlights that the HKSAR shall adhere to a number of important principles in line with the rule of law when protecting national security, including presumption of innocence, conviction and punishment according to law, and protection of the rights of the suspect in judicial proceedings, etc. It further addresses the concern

raised about retrospective effect, i.e. the Law stipulates that it shall only apply to acts committed after its entry into force for the purpose of conviction and imposition of punishment. All these clear requirements should be able to allay concerns so far raised.

A safe society provides a favourable business and investment environment. Safeguarding national security and the rule of law in Hong Kong is the cornerstone to maintain "One Country, Two Systems", ensuring the long-term stability and safety of Hong Kong. The HKSAR Government is confident that with the implementation of the Law, the social unrest which has troubled Hong Kong people for nearly one year will be eased and stability will be restored, thereby enabling Hong Kong to start anew and focus our priorities on economic development and people's livelihood.

Yours sincerely,

Raymond Fan

Director

(Representative to Australia and New Zealand)