

HKSAR Government strongly disapproves and firmly opposes United States report on human rights

The Hong Kong Special Administrative Region (HKSAR) Government today (March 21) strongly disapproved of and firmly rejected the unfounded remarks and smears contained in the United States (US) Department of State's so-called 2022 Country Reports on Human Rights Practices in respect of the Hong Kong National Security Law (NSL), Hong Kong's improved electoral system, situation of human rights and rule of law etc.

A HKSAR Government spokesperson said, "The HKSAR is an inalienable part of the People's Republic of China (PRC). We are 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 legal basis for implementing 'one country, two systems' is the Constitution and the Basic Law which provide constitutional guarantee for fundamental rights and freedoms, including the right to equality before the law, and is buttressed by the rule of law and independent judicial power."

The spokesperson stressed, "The HKSAR Government steadfastly safeguards national sovereignty, security and development interests, and upholds the authority of the NSL. It resolutely carries out its duties and obligations to safeguard national security in accordance with the law, and upholds the rights and freedoms enjoyed by Hong Kong people as protected under the law, so as to ensure the steadfast and successful implementation of 'one country, two systems'. By issuing the so-called annual report, the US again made despicable tricks, which override law by politics, with an attempt to undermine the prosperity and stability of Hong Kong by politicising human rights issues and slandering the human rights situation and rule of law in the city. It will only expose its own weakness and faulty arguments and be doomed to fail. The HKSAR Government again strongly urges the US to immediately stop using human rights as an excuse to interfere into the internal affairs of the HKSAR of the PRC."

Hong Kong's Improved Electoral System

The HKSAR Government spokesperson said, "The HKSAR Government deplores the erroneous statement in the so-called report on Hong Kong's improved electoral system and the 2022 Chief Executive Election. The improved electoral system of the HKSAR puts in place legal safeguards to ensure full implementation of 'patriots administering Hong Kong'. Loyalty to one's country is a politician's most basic political ethics, and a universally applicable and steadfastly upheld principle and standard. As such, 'patriots administering Hong Kong' is an unalterable principle. 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 Election Committee comprises 1 500 members from different sectors and classes of Hong Kong community. It goes beyond the vested interests of specific sectors, specific district and specific groups. The improved electoral system is to enhance the balanced and orderly political participation by the community and ensure broader representation in the political structure of Hong Kong. The reconstituted Election Committee is broadly representative, and its composition best demonstrates the balanced and orderly political participation. Coupled with the creation of a Candidate Eligibility Review Committee to ensure that candidates comply with the 'patriot' requirement, a new democratic electoral system according to the actual situation of Hong Kong and with Hong Kong characteristics is established.

"Hong Kong residents' rights to vote and to stand for election are well enshrined in the Basic Law. The Decision of the National People's Congress of the PRC in March 2021 did not revise the ultimate aim of attaining universal suffrage provided for in Articles 45 and 68 of the Basic Law. The improved electoral system, by ensuring 'patriots administering Hong Kong' and safeguarding the overall interests of society, is conducive to the stable development of Hong Kong's democracy."

Hong Kong National Security Law

"The HKSAR Government rebuked that the remarks on the NSL in the so-called report amount to fact twisting and political smearing, which are totally groundless and cannot be further from the truth," the HKSAR Government spokesperson said.

"Article 4 of the NSL has clearly stipulated that human rights shall be respected and protected in safeguarding national security in the HKSAR; the rights and freedoms which the residents of Hong Kong enjoy under the Basic Law and the provisions of the international covenants as applied to Hong Kong shall be protected in accordance with the law. Any measures or enforcement actions taken under the NSL must observe the above principle, and Hong Kong residents continue to enjoy various rights and freedoms, including the freedom of expression, freedom of assembly, freedom of association, freedom of movement, academic freedom, and enjoyment of cultural rights, etc., after the implementation of the NSL.

"The Standing Committee of the National People's Congress' interpretation on the NSL 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. The certification system is fair and reasonable, with a solid legal basis.

"In addition, the HKSAR Government also strongly objected to the unfounded and false remarks in the so-called report on the law enforcement actions taken by the HKSAR Government. All law enforcement actions taken by Hong Kong law enforcement agencies are based on evidence and strictly in accordance with the law in respect of the acts of the persons or entities

concerned, and have nothing to do with their political stance, background or occupation.

"Regarding the bail arrangement, the cardinal importance of safeguarding national security and preventing and suppressing acts endangering national security explains why the NSL introduces more stringent conditions to the grant of bail in relation to offences endangering national security.

"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 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."

Due Administration of Justice and the Rule of Law

In response to the so-called report's smearing on independent judicial power in Hong Kong, the HKSAR spokesperson stressed, "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 held accountable. Hong Kong's judicial system has always been highly regarded by international communities. The Judiciary exercises judicial power independently in accordance with the law, free from any interference. Everyone charged with a criminal offence has the right to a fair hearing.

"As guaranteed by the Basic Law and the Hong Kong Bill of Rights, all defendants charged with a criminal offence have the right to and will undergo a fair hearing by the Judiciary. 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."

Conditions of Prisons and Detention Centres

In response to the false information in the so-called report by the US on the conditions of prison and detention centres, the HKSAR Government spokesperson said, "The Correctional Services Department (CSD) is committed to providing a secure, safe, humane, decent and healthy custodial environment for persons in custody (PICs). The rights of PICs are safeguarded through a system of regular visits by independent visitors, namely Justices of the Peace (JPs), who are vested with the statutory duties to inspect the prisons once or twice every month. PICs may approach visiting JPs or lodge complaints through other channels including the CSD's Complaints Investigation Unit and the Ombudsman. All complaints by PICs will be handled in an open, fair and just manner."

Freedom of Assembly

In response to the presumptuous claims in the so-called report by the US, alleging the HKSAR Government banned public assembly based on public health concerns, the HKSAR Government spokesperson pointed out, "The freedom of assembly and freedom of procession in Hong Kong are fully protected by the Basic Law and the Hong Kong Bill of Rights Ordinance. However, such freedoms are not absolute or unrestricted. In response to COVID-19, similar to the measures adopted by many overseas jurisdictions, the HKSAR Government had put in place restrictions on group gatherings in public places so as to reduce the risks of spreading in the community, which poses serious threat to lives and health of the public. No political considerations had ever come into play. In light of the epidemic development, the relevant restriction had already been withdrawn by the end of 2022."

Rights to Form and Join Trade Unions

Regarding the unfounded statement in the so-called report by the US on freedom of association in Hong Kong, the HKSAR Government spokesman pointed out, "Hong Kong residents enjoy the right and freedom to form and join trade unions. Such right and freedom is clearly protected by Article 27 of the Basic Law and under local legislation, including the Trade Unions Ordinance. Trade union rights in Hong Kong are strong and intact as ever, which is evidenced by the marked increase in the number of registered trade unions from 2019 to 2022. It is crystal clear that the free exercise of the right and freedom of association in the Hong Kong has not been jeopardised in any way.

"The HKSAR Government is dedicated to defending and protecting the right and freedom of association in Hong Kong. One must draw a clear difference between legitimate trade union activities protected under our law and unlawful acts that have nothing to do with the exercise of trade union rights. It is the duty of Hong Kong law enforcement authorities to take legitimate actions against unlawful behaviours, which should not be wrongfully alleged as an affront to trade union rights."

Handling of Non-refoulement Claims

The HKSAR Government spokesman said, "The HKSAR Government maintains a firm policy of not granting asylum and not determining or recognising refugee status of any person. A Unified Screening Mechanism (USM) has been put in place to screen non-refoulement claims on all applicable grounds in one go. The procedures of the USM meet the high standards of fairness as required by law and compare most favourably with those adopted in other common law jurisdictions. Each non-refoulement claimant is also provided with publicly-funded legal assistance.

"The Immigration (Amendment) Ordinance 2021, which took effect from August 1, 2021, has further improved the handling of non-refoulement claims including enhancing efficiency in screening by the Immigration Department and preventing delaying tactics.

"Non-refoulement claimants have no lawful status to stay in Hong Kong.

Regardless of the outcome of their non-refoulement claims, claimants are not permitted to remain legally in Hong Kong and they have no right to work in Hong Kong. In those circumstances where it is necessary to detain non-refoulement claimants in accordance with the relevant statutory provisions, legal principles established by the Court and the prevailing detention policy, they are provided with adequate facilities and reasonable arrangements for their comfort are also made. The HKSAR Government also provides humanitarian assistance to them for sustaining their livelihood in Hong Kong."