

S for S speaks on National Security Law

Following is the transcript of remarks by the Secretary for Security, Mr John Lee, on the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the National Security Law) at a media session after attending the joint panel meeting in Legislative Council today (July 7):

Reporter: Can you respond to critics who said the Implementation Rules bypass all kinds of scrutiny? What about the new rules now that have granted more powers to the Police? Are there any checks and balances to avoid the abuse of powers?

Secretary for Security: The seven measures that were announced yesterday and gazetted, actually among the seven measures, four measures are current practices in Hong Kong laws. For example the power to search, in general situations, it will be conducted under a warrant issued by the court. But in exceptional circumstances, where likely, such as evidence may be destroyed in a short period of time, or the person responsible may have a chance to escape, this situation when the police officers face it, then they can search the premises without applying for a search warrant for reasons as I have mentioned. Such practice actually exists in current laws, such as when the Police have to do the similar thing under the Firearms and Ammunition Ordinance or when the ICAC exercise their powers under their relevant laws. In regard to confiscation, restraint of access, this is already the practice in our Hong Kong law in the Organized and Serious Crimes Ordinance or the United Nations (Anti-Terrorism Measures) Ordinance.

Another measure which requires people to show up at certain place to answer questions and to produce materials, again, it's a practice currently in the Organized and Serious Crimes Ordinance and the United Nations (Anti-Terrorism Measures) Ordinance. So these are all the current practices which we extended to cover the new offences created by the National Security Law. There is another practice which only ICAC officers have, under the Prevention of Bribery Ordinance, when officers of the ICAC can require a person under investigation to surrender his passport through an application to the court. So we are extending this power, so that in respect of national security offences, then the police officers can apply the law. So all these four measures are measures that are currently in the Hong Kong statutes.

In regard to the interception and covert surveillance, again, this is a measure that is currently in place in Hong Kong. But in regard to potential offences in relation to national security matters, the Chief Executive will be the authorising officer. This is not a practice that is peculiar to Hong Kong. In a lot of jurisdictions including western countries, in matters relating to national security, there are practices that the government officials, such as prime ministers, can issue authorisations for interception

or covert surveillance. Each place of course has its own safeguards and scrutiny as regards to the exercise of power. In our case, the exercise of this power will be scrutinised by the National Security Committee, and the National Security Committee may appoint an independent person to assist the National Security Committee to scrutinise the exercise of such power. So this, again, is not entirely new.

In regard to taking down messages on the Internet which may cause occurrence of offences in relation to national security, this also is a practice that is being done in a lot of overseas countries where there are powers to take down messages, in public interests or in relation to various offences.

What we do now is, the Police have to have the reason to believe that such information may cause occurrence of offences in relation to the National Security Law. And the person responsible or the service company that provides the service, then they have a duty to take down. So this is a measure that is being practised by other jurisdictions in different places so as to protect either public interests, various interests and also the national security interests as well.

There is also a measure which requires foreign political organisations or their agents, or Taiwan political organisations or their agents when they have activities in Hong Kong. And the Commissioner of Police believes that for the prevention investigation of offences in relation to national security, then he can require such persons or organisations to provide information. This is to control the relevant activities so as to ensure that in the interest of prevention and detection of offences in relation to national security, then the Police have the required tool. A similar power actually exists in the present Societies Ordinance where the Societies Officer can demand any society to provide information that the Societies Officer considers necessary in the discharge of his duty. So again it's not entirely new. But what is required in the law is provided that the organisation or the person provide that information, then his responsibility is discharged.

There are checks and balances in all the measures. As I've explained, in some of the measures, such as the search in general is conducted by the court, and the exercise of the OSCO (Organized and Serious Crimes Ordinance) powers and the UNATMO (United Nations (Anti-Terrorism Measures) Ordinance) powers, then they may have to apply for permission from the court. The whole procedures are in compliance with the protection of the human rights and also in compliance with the ICCPR (The International Covenant on Civil and Political Rights). And that has been made very clear in the enactment of the National Security Law and also as a result in our making of the rules.

(Please also refer to the Chinese portion of the transcript.)