

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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HONG KONG: SUBMISSION HIGHLIGHTS CONCERNS WITH PROPOSED ARTICLE 23 LEGISLATION

Amnesty International has submitted [comments](#) to the Hong Kong Security Bureau on the [consultation document](#) for the proposed Safeguarding National Security Ordinance under Article 23 of the Basic Law, Hong Kong’s mini-constitution.

In this submission, Amnesty calls on the Hong Kong government to halt the current legislative process, and only move forward with any new proposed legislation if it is fully compatible with international human rights law and standards and human rights obligations under Hong Kong law, and can be effectively and meaningfully consulted on.

The public consultation process was inadequate, not transparent, and did not give sufficient opportunity for effective and informed public participation. The public was given a period of only four weeks to consult on the proposed legislation without knowing how the text or offences will be worded, the penalties for violating them, or the proposed changes to police investigatory powers.

Amnesty is concerned that the Beijing-imposed National Security Law (NSL) of 2020 has created an unsafe environment for meaningful public consultation. Since the NSL was introduced, the Hong Kong government has used it to target peaceful dissent, creating a chilling effect on criticism of the government and civil society.

Moreover, the Hong Kong Legislative Council has effectively become a rubber stamp body, meaning that the government’s legislative proposal is unlikely to be significantly challenged in the remaining stages of the legislative process.

In sum, the proposed Safeguarding National Security Ordinance is a framework for further dismantling human rights in Hong Kong, especially the rights to freedom of expression and association.

Amnesty International is concerned that the Hong Kong government is seeking to import the definition of “national security” as [understood in mainland China](#), which is so broad and vague that the government can declare essentially any act, expression or association a threat to national security. Amnesty is further concerned about the range and – as far as known – vague and overly-broad definitions of the specific offences proposed.

For example, as countries around the world are repealing sedition laws, the Hong Kong government is further entrenching the colonial-era crime and proposing heavier penalties. Since 2020, authorities have used sedition provisions to prosecute individuals who only exercised their right to freedom of expression and other human rights. The last time the law was used prior to 2020 was in 1967.

The Hong Kong government is seeking to introduce new offences like the adoption of the mainland’s “state secrets” regime that has been used to jail journalists in China and suppress information in the public interest, like statistics about the usage of the death penalty.

The government has further proposed a new crime of “insurrection”, which goes beyond the requirements of Article 23, and could be levied against individuals who attend an assembly where some others engage in isolated “violent acts”.

A new offence of “external interference” could be used to criminalize interactions between Hong Kong civil society and international counterparts, as the Hong Kong government seems intent on dismissing the concerns of Hong Kongers raised since 2019 as a foreign plot.

The proposals include sweeping – albeit undefined – changes to the legal system and police powers that if enacted, would infringe on the rights to liberty (including presumption of bail), to freedom of movement, and to a fair trial, including to a lawyer.

In seeking to make aspects of the law extra-territorial, as claimed for the NSL, the Hong Kong government is further attempting to limit the exercise of the rights to freedom of expression, association and peaceful assembly and other rights outside of Hong Kong.

Many of the proposals run counter – in spirit or in word – to recommendations made by the UN Human Rights Committee in 2022, including for Hong Kong to refrain from applying the NSL until it is repealed, to repeal the sedition provisions in the Crimes Ordinance, and to take measures to protect and respect the rights of peaceful assembly and association, among other rights, and ensure a safe environment for civil society.

For decades, Amnesty International has highlighted concerns with national security legislation in countries around the world for violating human rights laws and standards, including in foreign jurisdictions selectively cited by the Hong Kong authorities to justify the new proposals. Amnesty International shared with the Hong Kong government research and analysis on such legislation, with a view of highlighting shortcomings in some of those laws cited.

Amnesty recognizes that every government has the right and duty to protect its citizens and all others subject to its jurisdiction, and that some jurisdictions have specific security concerns. But these may never be used as an excuse to deny people the right to express different political views and to exercise their other human rights as protected by international legal standards.