

What China's New National Security Laws Mean for the Protest Movement in Hong Kong

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China's new national security laws are a significant escalation against the protest movement in Hong Kong. Rather than act through Hong Kong officials to carry out its will, Beijing has decided to directly restrict the free speech rights of Hong Kong residents.

Last week, the Chinese government announced it was planning to impose a new set of national security laws in Hong Kong. It set off a firestorm. Some critics have called the move a complete breach of the city's autonomy. Others have said it signifies the end of Hong Kong's "one country, two systems" framework, which has been in place since the United Kingdom handed the territory back to Beijing in 1997.

What follows are some answers to the big questions surrounding the laws, including Beijing's motivations behind the bold move and what it means for the future of democracy in protest-engulfed Hong Kong.

What are the new national security laws? And why are they so controversial?

The new set of laws would criminalize [acts](#) such as secession, subversion, foreign interference, and terrorism. This would effectively ban a broad spectrum of political activity, including much of what we've seen from the [Hong Kong movement](#) over the last year. Any relationships with foreign political organizations could be categorized as foreign interference. Clashing with the police, even in self-defense, could be labeled terrorist activity. Sedition and subversion bans would diminish Hongkongers' right to free speech and press freedom.

After a year of protests, Beijing has apparently arrived at the conclusion that the Hong Kong government (and its Legislative Council) can no longer be trusted to pass and enforce national security laws, that Hong Kong's chief executive, Carrie Lam, can no longer be allowed to manage the protest movement. Instead of observing from afar, the Xi administration has decided to directly intervene in Hong Kong's lawmaking processes and hand the task of enacting Hong Kong's national security laws to the Standing Committee of the National People's Congress (NPCSC).

What is the NPCSC? What is their role in the Hong Kong political and legal system?

The Standing Committee of the National People's Congress (NPCSC) is the highest organ of the Chinese state and is dominated by members of the Chinese Communist Party. It has both legislative and judicial powers over Hong Kong — it can draft laws and interpret the Hong Kong constitution to decide whether those laws are legal.

Unlike Hong Kong's Legislative Council, which would struggle to enact the national security laws given domestic pressures, the NPCSC is expected to swiftly draft and approve these new national

security laws. Beijing would therefore be able to bypass any local resistance from Hong Kong.

But can Beijing directly pass laws for Hong Kong?

Not usually. However, the NPCSC has a secret weapon: [Article 18](#) of Hong Kong's Basic Law. This article allows the People's Republic of China (PRC) to directly apply laws in Hong Kong — but there's a caveat. The article only pertains to certain PRC laws: those relating to defense, foreign affairs, or "other matters outside the limits of the autonomy" of Hong Kong.

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The legal question is whether this slate of national security laws can be categorized under any of these three areas. Laws such as succession, subversion, and terrorism are generally not recognized as matters of defense or foreign affairs (they fall under a different category called public order laws). In addition, Article 23 states that national security laws are included under the purview of the Hong Kong government, and thus do not qualify as "other matters outside the limits of [Hong Kong's] autonomy."

In short, Beijing is operating on shaky legal grounds. But that will not stop the NPCSC from passing the laws anyway.

Can these laws be legally challenged in Hong Kong?

Yes. Specifically, they may be challenged on the basis of whether they exceed the power granted to them by Hong Kong's Basic Law. There is good reason to believe that such a challenge may even succeed. However, the NPCSC holds final power to interpret the law as they wish, so they could always overrule the court's decision.

And herein lies the core problem: because the NPCSC is the ultimate arbiter, the constitutional guarantees of Hong Kong's Basic Law are "[mere promises](#) the delivery of which is at the grace of the Chinese Communist Party." Hong Kong has never really had true constitutional rule of law, and its very legal order has always been subordinate to Beijing's political whims.

What else do we need to be concerned about?

According to a draft resolution from the NPCSC, the Hong Kong government will be instructed to "establish an organization and enforcement mechanism to [protect national security](#)." But if the Hong Kong government fails, the Chinese central government may also, based on need, set up its own [national security bureau](#) to operate in Hong Kong in order to enforce these laws. This would mean Chinese law enforcement and security agencies could directly intervene in the city.

The details of this arrangement have yet to be released, but the move is in line with Beijing's increasing boldness in circumventing Hong Kong institutions to exert more direct control.

What does this mean for the future of Hong Kong?

With the passage of the national security laws, both protesting en masse and individual actions of

political resistance will be met with much harsher consequences. Any political activity deemed seditious or unfavorable to the central government will be much riskier. Hongkongers are already rushing to install VPNs to protect their identities online.

But the implications go far beyond just the substance of the national security laws. The combination of Beijing's power to directly enact laws for Hong Kong and interpret those laws as widely as they wish spells the death of the "one country, two systems" principle, and any semblance of political and legal autonomy that the region still enjoys.

If last year's extradition bill was a legal portal that sent *individuals* to the Mainland to bypass Hong Kong's rule of law, judicial independence, and due process, then these new national security laws are a legal portal that sends *legislation* from Beijing directly to Hong Kong by fiat. Instead of extraditing Hongkongers to the Mainland to face trial, Beijing's legal system will simply be brought to Hong Kong.

The game has changed, and so must the Hong Kong movement. With the fate of Hongkongers now more intimately tied with those who are marginalized and oppressed in the Mainland, Hongkongers must realign their struggles with Chinese Mainlanders who are similarly oppressed by the Chinese state.

Now is not the time to look to the West. Now is the time for solidarity with Chinese workers, Chinese activists, and all who are oppressed in China.

Adapted from [Lausan](#).

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