



New Security Law in Hong Kong

 drishtiias.com/printpdf/new-security-law-in-hong-kong

Why in News

Recently, a draft legislation on national security has been tabled before China's Parliament which will **allow Beijing to draft national security laws for Hong Kong and also operate its national security organs** in it.

It will make changes in the **Basic Law**, the mini-constitution which defines ties between Hong Kong and Beijing (China's capital).

Key Points

- Basic Law allows **Hong Kong** to enjoy **executive, legislative and independent judicial power**, including that of final adjudication, **barring matters of defence and foreign affairs**.
- Under **Article 23 of the Basic Law, Hong Kong has to enact a national security law** "to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies."
- **Article 23** aims at **preserving national security** but it will also allow **China's** national security organs to formally **operate and set up institutions in Hong Kong**.
- Basic law makes it clear that **only Hong Kong's Legislative Council (LegCo) can make and repeal laws**.
- Beijing wants LegCo to pass the new legislation as soon as possible because it is **afraid** that if LegCo comes under the control of democrats after elections later in 2020, it will be hard to implement the legislation.

Democrats are against this law as it **curbs the autonomy of Hong Kong as SAR**.

- However, **Beijing can bypass LegCo** if it chooses to and make the national security law applicable to Hong Kong by **inserting this legislation in Annex III of the Basic Law**.
 - Under **Article 18 of Basic Law**, national laws can be applied in Hong Kong if they are **placed in Annex III**, and must be confined to defence, foreign affairs and matters outside the limits of autonomy of the region.
 - Once listed in Annex III, national laws **can be enforced in the city by way of promulgation** (automatically being put into effect) or **by legislating** locally in the SAR.

Basic Law

- Hong Kong was formerly a **British colony** and was handed over to **mainland China in 1997**, becoming one of its **Special Administrative Regions (SAR)**.
- It is governed by a **mini-constitution called the Basic Law**, which affirms the principle of **“one country, two systems”**.
- The constitutional document is a product of the **1984 Sino-British Joint Declaration**, under which China promised to honour Hong Kong’s liberal policies, system of governance, independent judiciary, and individual freedoms for a period of 50 years from 1997.

Background

- **Since 1997**, Hong Kong residents have protested many times to protect their Basic Law freedoms.
- In **2003**, the first major pro-democracy protest took place when the Hong Kong government first tried to enact the national security law.
- In **2014**, over one lakh city residents took part in the **Umbrella Revolution** to protest against China’s denial of democratic reforms.
- In **2019**, the largest protest till now, took place against a **proposed extradition law**, and continued with pro-democracy marches even after the legislation was withdrawn.
- **Impact of the Protests:**
 - The protests were **seen as an affront by mainland China** after which the government started adopting a more hardline approach to foreign policy and internal security issues.
 - The Hong Kong unrest also **impacted Taiwan** which led to the victory of the Democratic Progressive Party, which openly **opposes joining China**.
China considers the island states as its own but Taiwan opposes the view.

Criticism

- The draft law has been **criticised by democratic parties** in Hong Kong as it **undermines the “one country, two systems”** model that gives the SAR a high degree of autonomy.
- Hong Kong’s **freedoms will be compromised** as the law could effectively bring the city under full control of mainland China.
- The new law would **ban seditious activities that target mainland Chinese rule**, as well as **punish external interference in Hong Kong affairs**. This will lead to the **revival of the protests**.

Way Forward

- Recent protests against the extradition law **questioned the secretive, authoritarian and coercive government system of China** which believes that people can be controlled all the time. These also spreaded in the UK, France, US, Canada and Australia **gathering global attention and support**.
- The move to enact the national security law could also **undermine Hong Kong’s position as an East Asian trading hub**, and invite **global disapproval for Beijing**, which is already being accused of withholding key information related to the **Covid-19 pandemic**.
- It becomes **crucial to see how Hong Kong deals** with the situation. The **freedoms granted to it under the Basic Law will expire in 2047** and it is not clear what Hong Kong’s status will be.

Source: IE