

Hong Kong National Security Laws and Their Impacts

A new era of risk in the Special Administrative Region

At the opening of the National People's Congress (NPC) on 22 May, Beijing officially introduced a draft resolution that will allow it to establish national security laws in Hong Kong. The surprise move immediately revived fears of instability in the city, leading to a fall of almost 5.6% in the Hang Seng Index, with violent protests returning to the streets the following Sunday afternoon, the largest since the outbreak of COVID-19.

Beijing's decision is a historic moment for the city, the country and, given Hong Kong's economic and geopolitical significance, the world. However, very little is understood at this time about the coming legislation and its potential impacts. A new state of affairs will slowly begin to take shape in Hong Kong over the coming weeks and months, a highly fraught process that will expose organizations in the Special Administrative Region (HKSAR) to a spectrum of physical, political and business risks.

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This primer provides an overview of what is understood far, the key "known unknowns" and how Hill & Associates can help guide clients through this period of uncertainty.

The National Security Decision in Brief

The root of the current controversy is a decades-old question about national security in Hong Kong, and, more fundamentally, unresolved questions about the semi-autonomous territory's relationship with Beijing.

Under Article 23 of the Basic Law, the "mini-constitution" that governs the former colony separately from Mainland China, Hong Kong is required to pass national security laws that "prohibit any act of treason, secession, sedition, subversion against the Central People's Government," among several other things. The HKSAR government attempted to pass such legislation in 2003, but abandoned the effort following large demonstrations driven by concerns that such laws would undermine the city's autonomy and civil liberties. Although the legislation was never reintroduced, a number of subsequent moves by the local and central governments over the years were viewed by many as a similar threat, including the extradition bill that led to months of violent protests in 2019, to which the resolution in question is a direct reaction.

Unofficially translated, the "Decision of the National People's Congress on Establishing and Completing the Hong Kong Special Administrative Region's Legal System and Implementation Mechanisms for the Preservation of National Security (Draft)"¹ is not in itself a national security law for Hong Kong. Rather, it is a resolution that gives the NPC Standing Committee, the legislature's permanent body, legal justification to create such laws and incorporate them into Annex III of the Basic Law, which already provides space for legislation "outside the limits" of the city's autonomy, thereby bypassing Hong Kong's local legislative process. Additionally, it specifies that Hong Kong is still required to pass Article 23 laws, and authorizes the central government to establish institutions "relevant for the protection of national security" in Hong Kong, which indicates the possibility of a branch office of the Ministry of State Security being established there in the future.

¹ <https://www.chinalawtranslate.com/en/hkntsecdecisiondraft/>

The “Decision” is expected to be adopted on Thursday, 28 May, with the potential for some adjustments. The timeline for drafting is less clear, but it is anticipated that the NPC Standing committee, which meets every two months, could read a draft of the law in June, followed by adoption in August in a slightly accelerated legislative process. Implementation would still face a number of hurdles, as indeed the legal objections are many, and political/social resistance can be expected to be fierce.

Impacts on Multinational Organizations in Hong Kong

For multinationals, the Decision increases risks across many dimensions, giving rise to challenges that will unfold and evolve over short, medium and long term timeframes. As of writing, the immediately apparent critical hazards and uncertainties include the following:

- 1.) **Unrest:** Demonstrations following on from last year’s protest movement were already emerging in May, and expected to intensify in June and July. **Beijing’s announcement has, unsurprisingly, catalyzed these protests, but a mixture of factors including protester and police experience, opposition organization, and generally heightened tensions make for an even more unpredictable dynamic.** Business disruptions and threats to safety are likely.
- 2.) **Geopolitical rupture:** The international reaction to the development has been negative, with lawmakers from at least 23 countries condemning the decision, although the US response is the most important by far. Bilateral relations between Washington and Beijing, already severely damaged by the trade war and COVID-19, are now significantly worse and increasingly unstable. **The powerful-but-costly policy options that the US could apply in its response to Beijing mean that corporates face a heightened level of political risk and uncertainty.**
- 3.) **Economic risk:** Back-to-back political and health crises have pummeled Hong Kong’s economy. Unrest in 2019 produced the city’s first recession in a decade, and the combined effect of COVID-19 led 2020 first-quarter GDP to shrink by 8.9% year-on-year, the worst decline on record. While local and national leaders have worked in recent days to portray Beijing’s decision as a boon for business, the reality is likely to be the opposite, at least in the short term. **In addition to continued depressed tourism and consumer spending, there is now also greater concern about capital flight, particularly among high-net-worth individuals.**
- 4.) **Uncertain legal and political environment:** Arguably the greatest challenge for organizations in Hong Kong is the substantial uncertainties that surround the pending laws, actions and enforcement. The NPC draft Decision gives the standing committee a broad remit to enact legislation, potentially multiple times. The content and scope of these laws, to say nothing of their enforcement, remains to be seen, as does the shape of a Beijing-administered national security institution, and the appetite of Beijing to directly involve itself in city affairs. The announcement of the move led to an immediate outcry among some observers about the potential for broad restrictions on speech and assembly, as well as the possible targeting of foreign businesses and individuals. Mirroring their response to worries about the business impact, leaders in Hong Kong and Beijing moved quickly to reassure the public about the limited impact of the forthcoming laws and the territory’s continued autonomy. **However, the truth of the matter is that the basic character of the new environment in Hong Kong may not be apparent for months or even years, and will continue to develop over time.**

Managing Risk with Hill & Associates

Founded in Hong Kong in 1992, Hill & Associates is uniquely positioned to guide organizations through these historic changes in Hong Kong, from near real-time threat awareness to long-term strategic advisory.

- 1.) **Risk Intelligence:** H&A’s on-the-ground team of analysts has provided daily threat intelligence gathering and assessment since the protest movement emerged last year, alongside regularly-updated risk scenarios and mitigation recommendations.

- 2.) **Security Risk Management:** Our specialists can provide clients with the skills and planning necessary to mitigate threats. We can carry out threat, vulnerability and risk assessments; train staff with custom-designed crisis management plans; design, update and augment corporate policy and procedures; provide site security and VIP protection/extraction.

- 3.) **Crisis/Business Continuity Advisory:** Planning for medium and long-term scenarios in Hong Kong should begin now. H&A's experts can help you make the best business decisions by providing a better understanding of your organization's place in a complex and dynamic political landscape.



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