China's Security Law on Hong Kong

Part of: GS-II- Economy (PT-MAINS-PERSONALITY TEST)

Recently, several countries have proposed measures to protect Hong Kong residents fleeing potential political persecution from China’s new National Security Law. China’s new security law criminalizes what it deems secession, subversion, terrorism, and collusion with a foreign country.

Taiwan’s Response:

It has opened the Taiwan-Hong Kong Services and Exchange Office in order to help facilitate asylum for people fleeing Hong Kong. Taiwan was the first state which pledged to support Hong Kong residents seeking asylum, in May 2020. China also claims Taiwan to be part of China and threatens to use force to take over the island. China has proposed to Taiwan that it follow the “one country, two systems” model to unite with China. But the Taiwanese reject any idea of uniting with mainland China.

United Kingdom’s Response:

It has described the security law as a clear and serious violation of the 1984 Sino-British Joint Declaration under which it handed back its colony to China in 1997. Under the Joint Declaration, China had promised to maintain Hong Kong’s capitalist and more open political system for 50 years under "one country, two systems".

Since the handover, Hong Kong residents have accused China of overstepping its authority. The Umbrella Movement was a series of protests in 2014 that called for more transparent elections for the city’s chief executive. In 2019 protests erupted in Hong Kong over a proposed bill to allow extradition to mainland China.

It has decided to offer British citizenship to around three million residents of Hong Kong. It is also rethinking its provisional decision to allow Huawei (China’s Company) to be involved in the development of Britain’s 5G infrastructure.

Other Country’s Response
The USA has passed a Bipartisan Bill to sanction Chinese officials who violate Hong Kong’s freedoms. It is also planning to bring the Hong Kong Safe Harbor Act, which would open up a route for asylum for Hong Kong’s frontline activists in immediate danger.

Australia is considering offering Hong Kong residents temporary protection visas that will allow refugees to live in the country for up to three years.

Japan said that it is seriously concerned about China’s decision toward Hong Kong.

India has been keeping a close watch on recent developments in Hong Kong.

Chinese Reaction to Global Response:

- It has said that the security law issue is purely China’s internal affairs, and no foreign country has the right to interfere.
- It has condemned the UK’s citizenship offer to Hong Kongers and warned the UK for serious consequences.
- It considers all residents living in Hong Kong, including those with British National Overseas passports, as Chinese nationals.
- It has said that the UK’s U-turn on its Huawei decision would damage the UK’s image as an open, business-friendly environment.
- It has accused Taiwan administration of nurturing a separatist plot in Hong Kong and warned for a military response.

New Security Law in Hong Kong

- 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 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.