New national security law for Hong Kong

China has unveiled a new national security law for Hong Kong. The new law was passed by the Chinese parliament unanimously. It was subsequently made a part of Hong Kong’s Basic Law. The law will greatly expand Beijing’s power in Hong Kong.

New law target protesters?

The new law has widely defined some offences which punishes the protesters with harsh punishments. The offences include Secession, Subversion, Terrorist Activities, and Collusion with a Foreign Country or with External Elements to Endanger National Security.

All four offences can invite life imprisonment as the maximum punishment, followed by lesser penalties. The law allows the prosecution of persons who are not the residents of Hong Kong for committing an offence under the law outside the city. This allows the prosecution of foreigners who involve in city politics.

What are the changes made?

The mainland China will establish a new department in Hong Kong called the ‘Office for Safeguarding National Security’. With Beijing’s approval, the Office would be able to take over jurisdiction from Hong Kong’s law courts,

- If a case is complex due to the involvement of a foreign country or external elements,
- If a serious situation makes the local application of the security law difficult, or due to the occurrence of a major and imminent threat to national security.

In cases that are taken over by the Office, prosecutors as well as adjudicators will be appointed by mainland China. For these cases, Chinese procedural laws would apply. Under the new law, the power of interpretation of criminal statutes has been vested in the Standing Committee of the Chinese parliament.

If a trial involves “State secrets” or “public order”,

- It could be closed to the media and the public;
- Only the judgment would be delivered in open court.

What are the changes made to the Police Force?
The Hong Kong Police Force will have a separate department to deal with national security matters. The city’s Justice Department will have to form a specialised prosecution division. The police will have sweeping powers to investigate certain offences. Upon the Chief Executive’s approval, the police will have the power to investigate or tap phones. These powers have traditionally required prior court approval.

New Committee formed:

- A new body called the ‘Committee for Safeguarding National Security’ will be formed with Hong Kong’s Chief Executive at its helm. The Committee will be immune from judicial scrutiny.
- It will have a Beijing-appointed national security adviser. It will be responsible for formulating national security policies among other tasks.

How is Hong Kong governed?

- A former British colony, Hong Kong was handed over to mainland China in 1997, becoming one of its Special Administrative Regions.
- It is governed by a mini-constitution called the Basic Law. The Basic Law affirms the principle of “one country, two systems”.
- It upholds liberal policies, system of governance, independent judiciary, and individual freedoms of Hong Kong for 50 years from 1997.

Why this security law was enacted by China, not Hong Kong?

- Under Article 23 of the Basic Law, Hong Kong was supposed to enact the national security law on its own. However, when the city government tried to enact the law in 2003, the issue became a rallying point for massive protests. Ever since, the government steered clear of introducing the law again. The other way of implementing the law was by its inclusion in Annex III of the Basic Law.
- Annex III is a list of legislations confined to those relating to defence and foreign affairs, and other matters outside the limits of the Region’s autonomy.
- Adding a law to this list causes it to be enforced in the city by way of promulgation - meaning automatically being put into effect. Beijing chose this route.