Exploring the fury over HK’s national security law

Ker Sin Tze
For The Straits Times

The recent move by China’s National People’s Congress (NPC) to enact the national security law for Hong Kong has whipped up storm.

Critics have decried it as the end of Hong Kong as we know it. The United States and Western nations have also condemned China for breaching the guarantee of autonomy in the Sino-British Joint Declaration on Hong KongHandover. US President Donald Trump has also threatened sanctions and the removal of various privileges. His administration has provided no details on what step up will be taken or when it will be announced.

Similarly, details of the draft legislation have not been revealed. What is known is that the law is aimed at acts of secession, subversion, terrorism and foreign interference in Hong Kong. Critics warn that Hong Kong’s autonomy and freedoms are threatened by plans to allow China to set up its own institutions responsible for security.

But the national security law (NSL) is a work in progress. While there is no guarantee that whatever is introduced will be as damaging as it is feared, Hong Kong’s common law system remains.

Why then the intense opposition in Hong Kong and in the West?

The latest protests and the months-long street protests before it are perhaps better understood if one examines the make-up of Hong Kong society. Although the residents are predominantly ethnic Chinese, the society is diverse. Some are native Hong Kongers, some are immigrants from mainland China, some are former civil servants, businessmen, and ordinary workers who think of China as a threat to their security.

These people are basically anti-communist and dislike China. There are also significant numbers of British ex-servicemen, who have supported the protests.

In many cases, they have good cause to fear. As an international metropolis, Hong Kong has also drawn many people originally from Western countries and South-east Asia. These people enjoy the lifestyle that the city offers but at the same time they are aware that their lives are under constant threat from Beijing.

The much-postponed Article 23 China was fully aware of the complex challenges Hong Kong would pose after the 1997 handover. In negotiating with Britain for its return in 1997, China insisted, and the British agreed, on the inclusion of Article 23 in the Basic Law, the territory’s mini-constitution.

Article 23 states Hong Kong “shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central Government, or theft of state secrets, or to prohibit foreign political organizations or bodies from conducting political activities” and to prohibit Hong Kong “political organizations and bodies from establishing ties with foreign political organizations or bodies.”

No such law was enacted under the British regime. One reason is that the British government had no power to make laws in Hong Kong. The other is that the British government was not willing to take such a step.

The NSL, if enacted, will give Beijing the power to make the laws it wants. It will also give Beijing the power to enforce them.

Hong Kong riot police clash with protestors last month. Many questions have arisen over how the new national security law will be administered, enforced and adjudicated.

How it is put into practice has stoked great fear and opposition in the city. PHOTO: WITNESS

Hong Kong riot police clash with protestors last month. Many questions have arisen over how the new national security law will be administered, enforced and adjudicated. How it is put into practice has stoked great fear and opposition in the city. PHOTO: WITNESS

The legal front. As provided in the Basic Law, there are two ways to enact a law. The Hong Kong government could do so on its own by following the proposed Bill at the Legislative Council and approved. The second option is to enact a law by promulgation. In this case, once the draft of the NSL is finalized by the Standing Committee of the Chinese Parliament, the NSL can take effect after it is promulgated by the Chief Executive.

The NSL is placed under Annex III of Article 18 of the Basic Law. It is regarded as a locally enacted law. There exists, however, a technical difficulty as to whether it is appropriate and allowable to place the NSL under Annex III. The Hong Kong Bar Association argues that the Chinese Parliament can enact laws related only to national defence, foreign affairs and other matters outside the “limits of Hong Kong’s autonomy.” As the NSL deals with matters such as secession and subversion, which are similar to those specified under Article 23, it is argued that these are not outside the limits of autonomy and the NSL has, therefore, no place under Annex III of Article 18.

CHALLENGES TO THE NATIONAL SECURITY LAW

The push ahead for the NSL promises to make life difficult, if not impossible, for many Hong Kong residents. There are concerns that the law will be abused and used as a tool to silence dissent.

The new law could be used to arrest and prosecute individuals who are critical of the government. Critics fear that this could lead to a crackdown on freedom of expression and assembly. It could also limiting access to legal aid and other human rights protections.

Some critics argue that the law could be used to suppress political opposition and restrict the rights of Hong Kong residents. They fear that this could lead to a erosion of Hong Kong’s long-held freedoms and autonomy.

The implications of the NSL are vast, and its impact on Hong Kong’s economy and society will be significant. The law could lead to a loss of business and investment, and could also damage Hong Kong’s reputation as a global financial hub.

In conclusion, the national security law is a controversial and complex issue. It is important for all parties to work together to ensure that the law is implemented in a fair and transparent manner, and that it respects Hong Kong’s unique identity and way of life.

Weathering U.S. Blows

In announcing plans to revoke Hong Kong’s special trade status, President Trump accused China of having “shaken up the promise” of the “one country, two systems” framework.

This is a serious threat to Hong Kong’s economy and political stability. It could lead to a loss of investment and business, as well as a decline in the value of the Hong Kong dollar.

The United States has also imposed sanctions on individuals and entities linked to the Chinese government, which could further damage Hong Kong’s economy.

The Chinese government has responded with its own sanctions, targeting U.S. individuals and entities. This could lead to a further escalation of tensions between the two countries.

In conclusion, the Sino-US trade war is a serious threat to Hong Kong’s economy and political stability. It is important for all parties to work together to resolve this crisis and ensure that Hong Kong’s unique identity and way of life are preserved.