

Foreword

On June 30, 2020, the eve of the 23rd anniversary of the handover of Hong Kong sovereignty, China enacted the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (NSL). This law has had an unprecedented impact on Hong Kong, sparking local controversy and receiving significant attention from United Nations human rights experts and democratic countries.

Given the extraordinary changes in Hong Kong's rule of law, the *Academia Sinica Law Journal* has invited seven experts who have long engaged in studies of Hong Kong and China to evaluate this phenomenon from different perspectives. This special issue is a collection of their articles. The topics covered in the issue range from the context and the impact of the NSL to the origin and the implementation of "One Country, Two Systems" (OCTS) in Hong Kong. Through this collection, we hope readers can understand the profound changes since the Hong Kong handover.

Professor Jerome A. Cohen has conducted extensive research on the legal systems of China and Hong Kong over the past 60 years. He distinctively discusses the repressive political environment in which Hong Kong's judicial system is situated and analyzes how various political pressures have transformed Hong Kong's criminal justice system into a state machine used by those in power to generate fear and produce a chilling effect on social protests and political dissent. **Professor Michael C. Davis** considers the comprehensive impact of the NSL on the city from a macro perspective, concluding that the law

undermines Hong Kong's judicial system and the spheres of civil society, education, media, and politics. Hong Kong's liberalism has lost its foothold. In light of the sanctions imposed by some democratic countries on the Chinese and Hong Kong governments, Professor Davis puts forward the idea of a "multilateral framework" for sanctions, which is worthy of future scholarly and policy study. **Professor Johannes M.M. Chan** closely examines the implementation of the NSL over more than a year with a focus on how the law — one of the tools of the Chinese central government's "full jurisdiction" of Hong Kong — has been used by Beijing to contain Hong Kong's judicial system, which had been independent. His article points out that there is still room for the Hong Kong courts to respond to this challenge actively, but the prospect of Hong Kong's continuing judicial independence is not optimistic.

Professor Albert H.Y. Chen reviews the evolution of OCTS in Hong Kong: from its origin to Hong Kong's Basic Law and the design of a "high degree of autonomy" to the promulgation of the NSL in 2020 and the changes in Hong Kong's election system in 2021. His article considers the Chinese central government's thinking and policies governing Hong Kong. It also suggests the ever-present tension between the central government's power and Hong Kong's autonomy under OCTS. **Professor Victoria Tin-bor Hui** surveys the origin of OCTS in Hong Kong. Her article critically presents the flaws in the design of OCTS and the repeated cycles of central repression and local resistance under OCTS. She offers an in-depth description of the process of conflict escalation and the spirit of resistance in Hong Kong. **Professor Carole J. Petersen** focuses on the inadequate design of OCTS. She examines why OCTS, as a model of territorial autonomy, cannot resolve conflicts among stakeholders, turning the Sino-British Joint

Declaration's "high degree of autonomy" for Hong Kong into an empty promise. She argues that an ideal model should have been for the United Nations to play a substantial, meaningful role in negotiating territorial autonomy for Hong Kong. As a case study, Hong Kong has broad implications for thinking about the design of the "autonomy" model in other countries. **Dr. Daniel Ping Yu** investigates the intertwined relationship between the ideological evolution of the concept of "national security" by Chinese leaders in different periods and the changes in China's policy towards Hong Kong. He argues that China's "holistic view of national security" has influenced Beijing's current tightening and oppressive approach toward Hong Kong's governance, adding a unique contribution to the existing literature on Hong Kong.

Given that Hong Kong's academic freedom is also affected by the NSL, platforms for the international community to discuss Hong Kong issues are increasingly important. This special issue is designed to support continuing research and writing on Hong Kong's rule of law. We hope that scholarship, especially critical analyses, can continue to find space and energy to express itself. This special issue is presented multilingually. Each invited author chose on their own to write either in English or Chinese. Through this format, our Institute of Law intends to reach more readers in both the English- and Chinese-speaking worlds.

Our Institute published its first special issue in 2019, which we hoped would facilitate diverse academic exchange among different viewpoints on specific legal issues. This aspiration similarly motivates the planning of this issue, which aims to stimulate timely scholarly discussions on pressing rule of law issues. We will continue to expand our reach to crucial areas of legal studies in mainland China, Hong Kong, Macau, and jurisdictions beyond Taiwan. With these efforts, we seek to

raise the visibility of international research and encourage increasing numbers of scholars to engage in issues of equal importance, thereby promoting local research and dialogue with international academia.

A handwritten signature in black ink, appearing to read 'Lee', with a long horizontal flourish extending to the right.

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