1. Administrative Status of Special Administrative Region in China
There are currently four kinds of provincial administrative units directly under the Central People’s Government:
• Municipality (4)
• Province (23)
• Autonomous Region (5)
• Special Administrative Region (SAR) (2: Hong Kong and Macao)

2. Basis of Establishing the Special Administrative Regions
To resolve the historical issues regarding Hong Kong, Macao and Taiwan, the Central Authorities proposed the principle of “one country, two systems” and established special local administrative regions within the border of China to fulfill the common aspiration of the Chinese people for peaceful reunification of China. Under Article 31 of the national constitution, the State signed the Joint Declaration with Britain and Portugal in 1984 and 1987 respectively to establish two SARs in Hong Kong and in Macao when China resumed the exercise of sovereignty over Hong Kong and Macao.

3. Relationship between the Central Authorities and the Special Administrative Regions
• The SARs are directly under the Central People’s Government.
• The SARs are authorized by the National People’s Congress, the highest national authority, to practise a high degree of autonomy in accordance with the Basic Law.
• Similar to the other administrative regions, the government of the SARs is led by the Central People’s Government, with the former being subordinate to the latter, and the Chief Executive of the SARs shall be accountable to the Central People’s Government.
• The SARs are provincial administrative units of the State.
• The SARs, as local administrative region, cannot do anything that exercises the sovereignty of the State.

4. The Particularity of the Special Administrative Regions (Hong Kong and Macao)
The SARs obtain a kind of authorization different from other local administrative regions. This mainly includes the following:
• The socialist system and policies are not practised as in the mainland: the previous capitalist system and way of life shall be maintained and shall remain unchanged for 50 years.
• The previous laws of the SARs are retained through the Basic Law under the national constitution.
• The SARs enjoy a high degree of autonomy. This includes legislative, executive and independent judicial power, including that of final adjudication, as well as other powers given in accordance with the law.
**Legislative Power:** The Regions may on their own enact laws within the given autonomous areas. National laws are not implemented in the SARs except for those listed in Annex III of the Basic Laws (which is limited to the laws on national defence, foreign affairs and other laws not within the autonomous areas of the SARs.)

**Executive Power:** In aspects of economy, culture, science, education, society, public order, land and resources.

**Independent Judicial Power and the Power of Final Adjudication:** The Regions enjoy the judicial power and the power of final appeal within the autonomous areas of the SARs. The said powers shall be handled by the Court of Final Adjudication in Hong Kong/Macao. The previous judicial systems remain unchanged.

**Other Authorizations:** The Regions can join the suitable arenas of external affairs under the name of “Hong Kong, China” / “Macao, China”. Foreign affairs relating to the SARs shall be handled by the Central People’s Government, but the Regions may handle relevant affairs with special authorization (such as joining as delegation of the country the diplomatic negotiations directly related to the SARs and the suitable arenas of international organizations and international conferences conducted by the Central People’s Government).

- Affairs of the SARs shall be handled by local people.
- The Regions shall have their circulating currencies with independent finance. They shall not pay tax or fees for the Garrison to the Central People’s Government.
- Defence shall be handled by the Central People’s Government with the garrison, but the garrison shall not interfere in the local affairs of the SARs, and shall obey the Garrison Law of the State and the Basic Laws of the SARs.

5. **The Basis of Enacting the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China**

In 1983, China held diplomatic talks with Britain according to the principle of “one country, two systems”, and enacted the twelve basic policies regarding Hong Kong in accordance with this principle. The twelve basic policies are stated in the Sino-British Joint Declaration that was jointly signed by China and Britain in 1984. Annex I of the Sino-British Joint Declaration provides an elaboration of the Central People’s Government regarding the basic policies. Under Section (12) of Article 3 of the Sino-British Joint Declaration, the basic policies will remain unchanged for 50 years and be stipulated by the national law, the Basic Law of the Hong Kong Special Administrative Region (HKSAR) of the People’s Republic of China, issued by the National People’s Congress of the People’s Republic of China.

6. **Characteristics of the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China**

It is a national law, and yet is different from other national laws in that:

- It is the constitutional document of the HKSAR.
- The Basic Law is a national legislature on how the Central Government implement the basic policies regarding the HKSAR as stated in the Sino-British Joint Declaration that was signed jointly by China and Britain after negotiations.

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5 These twelve policies may be summarized in four aspects: 1. After returning to China, the HKSAR shall be established according to the national constitution; it is directly under the Central People’s Government; 2. The HKSAR shall have a high degree of autonomy and is governed by local people of Hong Kong, except for the authorities over national defence and foreign affairs; 3. The existing social and economic systems and the way of life shall remain unchanged, and the law is basically unchanged in Hong Kong; 4. Care for the economic interests of Britain and other States in Hong Kong.
• It is self-restraint – Article 159 of the Basic Law has a statement regarding the amendment of this Law: “No amendment to this Law shall contravene the established basic policies of the People’s Republic of China regarding Hong Kong.”
• There is an article with “openness” in the Basic Law (Article 23\(^6\)) that authorizes the HKSAR to legislate on its own.

7. The Significance of the Establishment of the Hong Kong Special Administrative Region (HKSAR)

• It is an important step for the motherland towards peaceful reunification. It is also a new, peaceful way/ mode of unification in history.
• The establishment of the HKSAR under “one country, two systems” allows the previous capitalist system and way of life to continue, thus protecting the continuation of the way of life, mindset, and various economic interests and the living standard that Hong Kong citizens have long been accustomed to, and maintaining the prosperity and stability of the HKSAR.
• Socialism is practised in the motherland. The HKSAR may act as the bridge between the motherland and the whole world of capitalism as well as the window for its opening policy. This is an enormous benefit for the motherland to develop international markets, introducing capital, technology and information, and further implement its plan of reform and open-door policy.

\(^6\) Article 23 of the Basic Law - The Hong Kong Special Administrative Region shall enact laws on its own 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.

Reference Materials:

1) The Central People’s Government of the People’s Republic of China
   http://english.gov.cn

2) Basic Law Package for Youth (Q&A)
   http://www.cpce.gov.hk/eng/learning/bl_octs_index.htm

3) Sino-British Joint Declaration

4) Sino-Portuguese Joint Declaration

5) Constitution of the People’s Republic of China

6) Basic Law of the Hong Kong Special Administrative Region

7) Basic Law of the Macao Special Administrative Region

8) 香港《基本法》教育協會：《一國兩制有關文憲》June 2004
First Step (Big principle of “One Country”):  
Hong Kong is a part of China

- The Hong Kong Special Administrative Region is an inalienable part of the People’s Republic of China. (Article 1)

- The national flag, national emblem, regional flag, regional emblem

  Apart from displaying the national flag and national emblem of the People’s Republic of China, the Hong Kong Special Administrative Region may also use a regional flag and regional emblem.
  The regional flag of the Hong Kong Special Administrative Region is a red flag with a bauhinia highlighted by five star-tipped stamens.
  The regional emblem of the Hong Kong Special Administrative Region is a bauhinia in the centre highlighted by five star-tipped stamens and encircled by the words “Hong Kong Special Administrative Region of the People’s Republic of China” in Chinese and “HONG KONG” in English. (Article 10)

Second Step (How to implement “Two Systems”):  
Unchanged/special system

- Citizens’ life, society and economy (in aspects of life)  

- The executive, legislative and judicial systems (in aspects of system)  

  In accordance with Article 31 of the Constitution of the People’s Republic of China, the systems and policies practised in the Hong Kong Special Administrative Region, including the social and economic systems, the system for safeguarding the fundamental rights and freedoms of its residents, the executive, legislative and judicial systems, and the relevant policies, shall be based on the provisions of this Law.
No law enacted by the legislature of the Hong Kong Special Administrative Region shall contravene this Law. (Article 11)

**Citizens’ Life**

- **Human right and freedom**
  The Hong Kong Special Administrative Region shall safeguard the rights and freedoms of the residents of the Hong Kong Special Administrative Region and of other persons in the Region in accordance with law. (Article 4)

- **Capitalism**
  The socialist system and policies shall not be practised in the Hong Kong Special Administrative Region, and the previous capitalist system and way of life shall remain unchanged for 50 years. (Article 5)

- **Personal private property**
  The Hong Kong Special Administrative Region shall protect the right of private ownership of property in accordance with law. (Article 6)

- **State property**
  The land and natural resources within the Hong Kong Special Administrative Region shall be State property. The Government of the Hong Kong Special Administrative Region shall be responsible for their management, use and development and for their lease or grant to individuals, legal persons or organizations for use or development. The revenues derived therefrom shall be exclusively at the disposal of the government of the Region. (Article 7)

**Institutionalization**

- **High degree of autonomy**
  The National People’s Congress authorizes the Hong Kong Special Administrative Region to exercise a high degree of autonomy and enjoy executive, legislative and independent judicial power, including that of final adjudication, in accordance with the provisions of this Law. (Article 2)

- **How? Who form it?**
  The executive authorities and legislature of the Hong Kong Special Administrative Region shall be composed of permanent residents of Hong Kong in accordance with the relevant provisions of this Law. (Article 3)

- **Use of law**
  The laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravene this Law, and subject to any amendment by the legislature of the Hong Kong Special Administrative Region. (Article 8)

- **Use of language**
  In addition to the Chinese language, English may also be used as an official language by the executive authorities, legislature and judiciary of the Hong Kong Special Administrative Region. (Article 9)
Chapter II: Relationship between the Central Authorities and the Hong Kong Special Administrative Region

1. Status [Article 12]
   • A local administrative region of the People’s Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People’s Government.

2. Division of labour [Article 13]
   • The Central People’s Government shall be responsible for the foreign affairs relating to and the defence of the Hong Kong Special Administrative Region.
   • The Hong Kong Special Administrative Region shall conduct relevant external affairs on its own in accordance with this Law.

3. Garrison [Article 14]
   • Military forces shall not interfere in the local affairs of the Region.
   • When necessary, the garrison may assist upon request in the maintenance of public order and in disaster relief.
   • In addition to abiding by national laws, members of the garrison shall abide by the laws of the Hong Kong Special Administrative Region.
   • Expenditure for the garrison shall be borne by the Central People’s Government.

4. Appointment [Article 15]
   • The Central People’s Government shall appoint the Chief Executive and the principal officials of the Hong Kong Special Administrative Region in accordance with the provisions of Chapter IV of this Law.

5. [Articles 16, 17 and 18]
   • The Hong Kong Special Administrative Region shall be vested with executive power and legislative power (laws enacted must be reported to the Standing Committee of the National People’s Congress for the record), and maintain an independent legal unit system (*Annex III: National Law).

6. Independent judicial power and final adjudication. [Article 19]
   • The Hong Kong Special Administrative Region shall be vested with independent judicial power, including that of final adjudication.
   • The courts of the Hong Kong Special Administrative Region shall have jurisdiction over all cases in the Region, except that the restrictions on their jurisdiction imposed by the legal system and principles previously in force in Hong Kong shall be maintained.
   • The courts of the Hong Kong Special Administrative Region shall have no jurisdiction over acts of state such as defence and foreign affairs. The courts of the Region shall obtain a certificate from the Chief Executive on questions of fact concerning acts of state such as defence and foreign affairs whenever such questions arise in the adjudication of cases. This certificate shall be binding on the courts. Before issuing such a certificate, the Chief Executive shall obtain a certifying document from the Central People’s Government.
7. **Article 20**
   • The Hong Kong Special Administrative Region may enjoy other powers granted to it by the National People’s Congress, the Standing Committee of the National People’s Congress or the Central People’s Government.

8. **Article 21**
   • Chinese citizens who are residents of the Hong Kong Special Administrative Region shall be entitled to participate in the management of state affairs according to law. For examples: National People’s Congress

9. **Article 22**
   • No department of the Central People’s Government and no province, autonomous region, or municipality directly under the Central Government may interfere in the affairs which the Hong Kong Special Administrative Region administers. For entry into Hong Kong, people from other parts of China must apply for approval. The Hong Kong Special Administrative Region may establish an office in Beijing.

10. **Article 23**
    • The Hong Kong Special Administrative Region shall enact laws on its own 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.
First, define who Hong Kong people are, and see who can enjoy the rights listed in the law ➤ Article 24

- Permanent residents vs Non-permanent residents (right of abode)
- Permanent residents are:

<table>
<thead>
<tr>
<th>Persons of Chinese nationality</th>
<th>Persons of Non-Chinese nationality</th>
</tr>
</thead>
<tbody>
<tr>
<td>➤ Born in Hong Kong / Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years.</td>
<td>➤ Persons not of Chinese nationality have legally entered Hong Kong, have ordinarily resided in Hong Kong for a continuous period of not less than seven years and have taken Hong Kong as their place of permanent residence.</td>
</tr>
<tr>
<td>➤ Their children under 21 years of age born in Hong Kong.</td>
<td>➤</td>
</tr>
</tbody>
</table>

Persons other than those residents listed in the above categories, who, before the establishment of the HKSAR, had the right of abode in Hong Kong only.

**Big principle** ➤ Article 25

- All Hong Kong residents shall be equal before the law.
  ➤ Hong Kong is a society of rule of law.
  ➤ “Basic Law” is a law!

**Private living space**

- Freedom of the person (Article 28).
- The homes and other premises (Article 29).
- Freedom and privacy of communication (Article 30).
- Freedom to travel and to enter or leave the Region, freedom of movement within the Region and freedom of emigration to other countries and regions (Article 31).
- Freedom of conscience (Article 32).
- Freedom of choice of occupation (Article 33).
- Freedom to engage in academic research, literary and artistic creation, and other cultural activities (Article 34).
- Right to social welfare, welfare benefits and retirement security of the labour force (Article 36).
- Freedom of marriage and right to raise a family freely (Article 37).
Public social life

- Permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election (Article 26).
- Judicial right (confidential legal advice, access to the courts, institute legal proceedings against the government, choice of lawyers).
- Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike (Article 27).

Other miscellaneous protective provisions

- The other rights and freedoms safeguarded by the laws of the Hong Kong Special Administrative Region (Article 38).
- The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions. The rights and freedoms enjoyed by Hong Kong residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of the preceding paragraph of this Article. (Article 39)

Other persons and special examples

- The lawful traditional rights and interests of the indigenous inhabitants of the “New Territories” shall be protected by the Hong Kong Special Administrative Region. (Article 40)
- Persons in the Hong Kong Special Administrative Region other than Hong Kong residents shall, in accordance with law, enjoy the rights and freedoms of Hong Kong residents prescribed in this Chapter. (Article 41).

Private living space

- Freedom of the person (Article 28).
- The homes and other premises (Article 29).
- Freedom and privacy of communication (Article 30).

When there are rights, there are obligations! (Article 42)

- Hong Kong residents and other persons in Hong Kong shall have the obligation to abide by the laws in force in the Hong Kong Special Administrative Region.
Chapter IV: Political Structure

Section 1: The Chief Executive

Who?

- The Chief Executive of the Hong Kong Special Administrative Region shall be the head of the Hong Kong Special Administrative Region and shall represent the Region. (Article 43)
- To lead the government of the Region (Article 48), the head of the Government of the Hong Kong Special Administrative Region shall be the Chief Executive of the Region. (Article 60)
- The Chief Executive of the Hong Kong Special Administrative Region shall be accountable to the Central People's Government and the Hong Kong Special Administrative Region in accordance with the provisions of this law. (Article 43)
- Not less than 40 years of age (Article 44).
- A Chinese citizen who is a permanent resident of the Region with no right of abode in any foreign country and has ordinarily resided in Hong Kong for a continuous period of not less than 20 years. (Article 44)

How?

- Selected by election or through consultations held locally and be appointed by the Central People's Government. (Article 45)
- In the light of the actual situation and in accordance with the principle of gradual and orderly progress, the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures. (Article 45)
- Annex I: "Method for the Selection of the Chief Executive of the Hong Kong Special Administrative Region". (Article 45)
- The term of office shall be five years; he or she may serve for not more than two consecutive terms. (Article 46)
- The Chief Executive shall, on assuming office, declare his or her assets to the Chief Justice of the Court of Final Appeal. This declaration shall be put on record. (Article 47)
- Resignation (Article 52)
  - When he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons;
  - When he or she refuses twice to sign a bill passed by Legislative Council ➔ Legislative Council is dissolved ➔ the new Legislative Council again passes by a two-thirds majority of all the members the original bill in dispute ➔ but he or she still refuses to sign it;
  - When the Legislative Council refuses to pass a budget or any other important bill ➔ Legislative Council is dissolved ➔ the new Legislative Council ➔ still refuses to pass the original bill in dispute
- If the Chief Executive of the Hong Kong Special Administrative Region is not able to discharge his or her duties for a short period, such duties shall temporarily be assumed by the Administrative Secretary, Financial Secretary or Secretary of Justice in this order of precedence. (Article 53)
- In the event that the office of Chief Executive becomes vacant, a new Chief Executive shall be selected within six months. (Article 53)
Work

- Powers and functions: Article 48
  1. To lead the government of the Region;
  2. To be responsible for the implementation of the Law;
  3. To sign bills passed by the Legislative Council and to promulgate laws; To sign budgets passed by the Legislative Council and report the budgets and final accounts to the Central People’s Government for the record;
  4. To decide on government policies and to issue executive orders;
  5. To nominate and to report to the Central People’s Government for appointment the following principal officials: Secretaries and Deputy Secretaries of Departments, Directors of Bureaux, Commissioner Against Corruption, Director of Audit, Commissioner of Police, Director of Immigration and Commissioner of Customs and Excise; and to recommend to the Central People’s Government the removal of the above-mentioned officials;
  6. To appoint or remove judges of the courts at all levels in accordance with legal procedures;
  7. To appoint or remove holders of public office in accordance with legal procedures;
  8. To implement the directives issued by the Central People’s Government in respect of the relevant matters provided for in this Law;
  9. To conduct, on behalf of the Government of the Hong Kong Special Administrative Region, external affairs and other affairs as authorized by the Central Authorities;
  10. To approve the introduction of motions regarding revenues or expenditure to the Legislative Council;
  11. To decide, in the light of security and vital public interests, whether government officials or other personnel in charge of government affairs should testify or give evidence before the Legislative Council or its committees;
  12. To pardon persons convicted of criminal offences or commute their penalties; and
  13. To handle petitions and complaints.

- If the Chief Executive considers that a bill passed by the Legislative Council is not compatible he or she may return it to the Legislative Council within three months for reconsideration. If the Legislative Council passes the original bill again by not less than a two-thirds majority of all the members the Chief Executive must sign and promulgate it within one month, or … [the hint is in Article 50!] (Article 49).

- The Chief Executive may dissolve the Legislative Council only once in each term of his or her office (Article 50).
- Provisional appropriations (Article 51).

Executive Council

- Members shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country. (Article 55)
- Term of office = the Chief Executive
- Resignation – the Chief Executive (Article 52)
- If the Chief Executive does not accept a majority opinion of the Executive Council, he or she shall put the specific reasons on record. (Article 56)
- Except for the appointment, removal and disciplining of officials and the adoption of measures in emergencies, the Chief Executive shall consult the Executive Council before making important policy decisions, introducing bills to the Legislative Council, making subordinate legislation, or dissolving the Legislative Council.” (Article 56)
Direct subordinates
• Independent Commission Against Corruption
• Audit Commission

Section 2: The Executive Authorities

• A Department of Administration, a Department of Finance, a Department of Justice, and various bureaux, divisions and commissions shall be established (Article 60).
• The principal officials shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country and have ordinarily resided in Hong Kong for a continuous period of not less than 15 years. (Article 61)
• Powers and functions (Article 62)
  1. To formulate, implement and conduct administrative policies and affairs;
  2. To draw up and introduce budgets;
  3. To draft and introduce bills, motions and subordinate legislation;
  4. To conduct external affairs as authorized by the Central People’s Government;
  5. To sit in on the meetings of the Legislative Council and to speak on behalf of the government.
• The Department of Justice shall control criminal prosecutions, free from any interference. (Article 63)
• Be accountable to the Legislative Council: implement laws, present policy addresses, answer questions raised by members of the Council; and it shall obtain approval from the Council for taxation and public expenditure. (Article 64)
• Advisory bodies (Article 65).

Section 3: The Legislature

Legislative meetings
• Shall be composed of Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country. (Permanent residents of the Region who are not of Chinese nationality or who have the right of abode in foreign countries may also be elected members < 20 %) (Article 67).
• In the light of the actual situation and in accordance with the principle of gradual and orderly progress, the ultimate aim is the election of all the members of the Legislative Council by universal suffrage. (Article 68)
• Annex II: “Method for the Formation of the Legislative Council of the Hong Kong Special Administrative Region and Its Voting Procedures” (Article 68)
• The term of office shall be four years (Article 69).

President of the Legislative Council
• Elected by and from among the members of the Legislative Council. (Article 71)
• Not less than 40 years of age, who is a permanent resident of the Region with no right of abode in any foreign country and has ordinarily resided in Hong Kong for a continuous period of not less than 20 years. (Article 71)
• Powers and functions (Article 73)
  1. To enact, amend or repeal laws;
  2. To examine and approve budgets;
(3) To approve taxation and public expenditure;
(4) To raise questions on the work of the government and receive the policy addresses;
(5) To endorse the appointment and removal of the judges of the Court of Final Appeal and the Chief Judge of the High Court;
(6) To debate any issue concerning public interests, handle complaints from Hong Kong residents;
(7) To impeach the Chief Executive;
(8) To summon witnesses.

• Bills introduction:
  Bills which do not relate to public expenditure or political structure or the operation of the government may be introduced individually or jointly by members of the Council. (2) The written consent of the Chief Executive shall be required before bills relating to government policies are introduced (Article 74).

• The quorum for the meeting: not less than one half of all its members. (Article 75)

• A bill passed by the Legislative council may take effect only after it is signed and promulgated by the Chief Executive. (Article 76)

• Shall be immune from legal action in respect of their statements at meetings of the Council. Shall not be subjected to arrest when attending or on their way to a meeting of the Council (Articles 77 and 78)

• Leave his or her post ...(Article 79)
  (1) When he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons;
  (2) When he or she is absent from meetings for three consecutive months without the consent of the President of the Legislative Council;
  (3) When he or she loses or renounces his or her status as a permanent resident of the Region;
  (4) When he or she accepts a government appointment and becomes a public servant;
  (5) When he or she is bankrupt or fails to comply with a court order to repay debts;
  (6) When he or she is convicted and sentenced to imprisonment for one month or more for a criminal offence committed within or outside the Region and is relieved of his or her duties by a motion passed by two-thirds of the members of the Legislative Council present.

Section 4: The Judiciary

• The Court of Final Appeal ➔ the Court of Appeal of the High Court ➔ the Court of First Instance of the High Court ➔ district courts ➔ magistrates’ courts and other special courts (Article 81)
• The power of final adjudication (Article 82)
• The laws + precedents of other common law jurisdictions = adjudicate cases (Article 84)
• Shall exercise judicial power independently, free from any interference, shall be immune from legal action in the performance of their judicial functions. (Article 85)
• Jury (Article 86)
• Anyone who is lawfully arrested shall have the right to a fair trial by the judicial organs without delay and shall be presumed innocent until convicted by the judicial organs. (Article 87)
• Judges of the courts shall be appointed by the Chief Executive on the recommendation of an independent commission. (Article 88)
• Remove a judge: for inability to discharge his or her duties, or for misbehaviour / a judge of court is recommended by the Chief Justice of the Court of Final Appeal and consisting of not fewer than three local judges, the Chief Justice of the Court of Final Appeal is recommended by not fewer than five local judges. (Article 89)
• The Chief Justice of the Court of Final Appeal and the Chief Judge of the High Court shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country. (Article 90)
• The relationship with the judiciary of other places: Judges and other members of the judiciary of the Hong Kong Special Administrative Region may be recruited from other common law jurisdictions (Article 92); lawyers from outside Hong Kong can work and practise in Hong Kong (Article 94); the Hong Kong Special Administrative Region may, through consultations and in accordance with law, maintain juridical relations with the judicial organs of other parts of the country, and they may render assistance to each other (Article 95). With the assistance or authorization of the Central People’s Government, the Government of the Hong Kong Special Administrative Region may make appropriate arrangements with foreign states for reciprocal juridical assistance. (Article 96)

Section 5: District Organizations

• Culture, recreation and environmental sanitation, etc. (Article 97)

Section 6: Public Servants

• Only Chinese citizens among permanent residents of the Region with no right of abode in any foreign country may fill the following posts: the Secretaries and Deputy Secretaries of Departments, Directors of Bureaux, Commissioner Against Corruption, Director of Audit, Commissioner of Police, Director of Immigration and Commissioner of Customs and Excise. (Article 101)
• Public servants serving in all government departments of the Hong Kong Special Administrative Region must be permanent residents of the Region. (Article 99)
• Public servants serving in all Hong Kong government departments may all remain in employment and retain their seniority with pay, allowances, benefits and conditions of service no less favourable than before. (Article 100)
Chapter V: Economy

Section 1: Public Finance, Monetary Affairs, Trade, Industry and Commerce

**Protect personal property**  ➔ Article 105
- Protect the right of individuals' and legal persons' property.
- Lawful deprivation of their property and reasonable compensation.

**Internally, how does HKSAR manage finances?**
- The Hong Kong Special Administrative Region shall have independent finances. (Article 106)
  ➔ The Hong Kong Special Administrative Region shall use its financial revenues exclusively for its own purposes, and they shall not be handed over to the Central People's Government.
  ➔ The Central People's Government shall not levy taxes in the Hong Kong Special Administrative Region.
- Follow the principle of keeping the expenditure within the limits of revenues in drawing up its budget, and strive to achieve a fiscal balance, avoid deficits. (Article 107)
- Practise an independent taxation system. (Article 108)

**Externally, how does HKSAR act as an international finance centre?**
- Independent economy
  - Maintenance of the status of Hong Kong as an international financial centre (Article 109)
  - The monetary and financial systems (Article 110)
  - The Hong Kong dollar, as the legal tender, shall continue to circulate [a 100 per cent reserve fund]. (Article 111)
  - The Exchange Fund ➔ regulating the exchange value of the Hong Kong dollar (Article 113)
  - A separate customs territory/"Hong Kong, China" (Article 116)
- A free economy
  - No foreign exchange control policies shall be applied. (Article 112)
  - Free port (Article 114)
  - The policy of free trade: safeguard the free movement of goods, intangible assets and capital. (Article 115)

**Development of industries**  ➔ Articles 117, 119 and 105
- The ownership of enterprises and the investments from outside the Region shall be protected by law. (Article 105)

Section 2: Land Leases  ➔ Articles 120-123

Section 3: Shipping  ➔ Articles 124-127

Section 4: Civil Aviation  ➔ Articles 128-135
Chapter VI: Education, Science, Culture, Sports, Religion, Labour and Social Services

Internal

• The Government of the Hong Kong Special Administrative Region shall maintain the policy previously practised in Hong Kong in respect of subventions for non-governmental organizations in fields such as education, medicine and health, culture, art, recreation, sports, social welfare and social work. Staff members previously serving in subvented organizations in Hong Kong may remain in their employment in accordance with the previous system. (Article 144)

External

• The relationship between non-governmental organizations in fields such as education, science, technology, culture, art, sports, the professions, medicine and health, labour, social welfare and social work as well as religious organizations in the Hong Kong Special Administrative Region and their counterparts on the mainland shall be based on the principles of non-subordination, non-interference and mutual respect. (Article 148)

• Non-governmental organizations in fields such as education, science, technology, culture, art, sports, the professions, medicine and health, labour, social welfare and social work as well as religious organizations in the Hong Kong Special Administrative Region may maintain and develop relations with their counterparts in foreign countries and regions and with relevant international organizations. They may, as required, use the name “Hong Kong, China” in the relevant activities. (Article 149)

Education ➤ Articles 136 and 137

• The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on the development and improvement of education, including policies regarding the educational system and its administration, the language of instruction, the allocation of funds, the examination system, the system of academic awards and the recognition of educational qualifications.

• Community organizations and individuals may, in accordance with law, run educational undertakings of various kinds in the Hong Kong Special Administrative Region.

• Educational institutions of all kinds may retain their autonomy and enjoy academic freedom. They may continue to recruit staff and use teaching materials from outside the Hong Kong Special Administrative Region. Schools run by religious organizations may continue to provide religious education, including courses in religion.
• Students shall enjoy freedom of choice of educational institutions and freedom to pursue their education outside the Hong Kong Special Administrative Region.

Assessment of qualifications ➤ Article 142
In the past
• Persons with professional qualifications or qualifications for professional practice obtained prior to the establishment of the Hong Kong Special Administrative Region may retain their previous qualifications in accordance with the relevant regulations and codes of practice.
• Continue to recognize the professions and the professional organizations recognized prior to the establishment of the Region, and these organizations may, on their own, assess and confer professional qualifications.

In the future
• The Government of the Hong Kong Special Administrative Region shall formulate provisions on its own for assessing the qualifications for practice in the various professions.
• The Government of the Hong Kong Special Administrative Region may, as required by developments in society and in consultation with the parties concerned, recognize new professions and professional organizations.

Science ➤ Article 139
• The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on science and technology and protect by law achievements in scientific and technological research, patents, discoveries and inventions.
• The Government of the Hong Kong Special Administrative Region shall, on its own, decide on the scientific and technological standards and specifications applicable in Hong Kong.

Medical and health services ➤ Article 138
• The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies to develop Western and traditional Chinese medicine and to improve medical and health services.
• Community organizations and individuals may provide various medical and health services in accordance with law.

Social welfare and service ➤ Articles 145 and 146
• On the basis of the previous social welfare system, the Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on the development and improvement of this system in the light of the economic conditions and social needs.
• Voluntary organizations providing social services in the Hong Kong Special Administrative Region may, on their own, decide their forms of service, provided that the law is not contravened.

Labour ➤ Article 147
• The Hong Kong Special Administrative Region shall on its own formulate laws and policies relating to labour.
Culture

- The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on culture and protect by law the achievements and the lawful rights and interests of authors in their literary and artistic creation.

Religions

- The Government of the Hong Kong Special Administrative Region shall not restrict the freedom of religious belief, interfere in the internal affairs of religious organizations or restrict religious activities which do not contravene the laws of the Region.
- Religious organizations shall, in accordance with law, enjoy the rights to acquire, use, dispose of and inherit property and the right to receive financial assistance. Their previous property rights and interests shall be maintained and protected.
- Religious organizations may, according to their previous practice, continue to run seminaries and other schools, hospitals and welfare institutions and to provide other social services.
- Religious organizations and believers in the Hong Kong Special Administrative Region may maintain and develop their relations with religious organizations and believers elsewhere.

Sports

- The Government of the Hong Kong Special Administrative Region shall, on its own, formulate policies on sports.
- Non-governmental sports organizations may continue to exist and develop in accordance with law.
### Participating identity

| Participate in negotiations at the diplomatic level directly affecting the Region conducted by the Central People’s Government | As members of delegations of the Government of the People’s Republic of China | Article 150 |
| Participate in international organizations or conferences in appropriate fields limited to states and affecting the Region | As members of delegations of the People’s Republic of China / express their views, using the name “Hong Kong, China” | Article 152 |
| Economic, trade, financial and monetary, shipping, communications, tourism, cultural and sports fields | “Hong Kong, China” |

### Arrangement in participating international treaties and international organizations

<table>
<thead>
<tr>
<th>Is Central Government the participant?</th>
<th>Is Hong Kong the participant?</th>
<th>How to handle?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Yes</td>
<td>Continue to retain its status in an appropriate capacity in those international organizations. (Article 152)</td>
</tr>
<tr>
<td>Yes</td>
<td>No</td>
<td>Decided by the Central People’s Government, in accordance with the circumstances and needs of the Region, and after seeking the views of the government of the Region. (Article 153)</td>
</tr>
<tr>
<td>No</td>
<td>Yes</td>
<td>Continue to be implemented.</td>
</tr>
<tr>
<td>No</td>
<td>No</td>
<td>?</td>
</tr>
</tbody>
</table>
**Going out, coming in**

**Going out**
- Establish official or semi-official economic and trade missions in foreign countries
  - Shall report the establishment of such missions to the Central People’s Government for the record ➤ Article 156

**Coming in**
- The establishment of foreign consular and other official or semi-official missions in the Hong Kong Special Administrative Region
  - Shall require the approval of the Central People’s Government ➤ Article 157
- Consular and other official missions established in Hong Kong by states which have formal diplomatic relations with the People’s Republic of China
  - May be maintained ➤ Article 157
- According to the circumstances of each case, consular and other official missions established in Hong Kong by states which have no formal diplomatic relations with the People’s Republic of China
  - May be permitted either to remain or be changed to semi-official missions ➤ Article 157
- States not recognized by the People’s Republic of China
  - May only establish non-governmental institutions in the Region ➤ Article 157

**Visa and passport (shall be authorized by the Central People’s Government, or assistance shall be provided when necessary)**

- Passports of the Hong Kong Special Administrative Region + other travel documents, immigration controls on entry into, stay in and departure from the Region (Article 154)
- Conclude visa abolition agreements. (Article 155)
Chapter VIII: Interpretation and Amendment of the Basic Law

The power of interpretation ➔ Article 158
First step: The Standing Committee of the National People’s Congress shall authorize the courts of the Hong Kong Special Administrative Region to interpret on their own, in adjudicating cases, the provisions of this Law which are within the limits of the autonomy of the Region.

• Second step: However, if the courts of the Region, in adjudicating cases, need to interpret the provisions of this Law concerning affairs which are the responsibility of the Central People’s Government, or concerning the relationship between the Central Authorities and the Region…… the courts of the Region shall, before making their final judgments which are not appealable, seek an interpretation of the relevant provisions from the Standing Committee of the National People’s Congress through the Court of Final Appeal of the Region.

• **Exceptional cases: no authorization for interpretation of defence and foreign affairs

In this case, has the Standing Committee of the National People’s Congress granted the Hong Kong Special Administrative Region the power of interpretation?

The power of amendment vs. the power to propose bills for amendments vs. formula ➔ Article 159

The power of amendment ➔ the National People’s Congress
The power to propose bills for amendments ➔ the Standing Committee of the National People’s Congress, the State Council and the Hong Kong Special Administrative Region

• Procedure: obtaining the consent of two-thirds of the deputies of the Region to the National People’s Congress ➔ obtaining the consent of two-thirds of all the members of the Legislative Council of the Region ➔ obtaining the consent of the Chief Executive of the Region ➔ submitted to the National People’s Congress by the delegation of the Region to the National People’s Congress ➔ the Committee for the Basic Law of the Hong Kong Special Administrative Region shall study it and submit its views ➔ put on the agenda

** (vs. the Standing Committee)

** No amendment to this Law shall contravene the established basic policies of the People’s Republic of China regarding Hong Kong.
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http://www.coms-auth.hk

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http://www.edb.gov.hk

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http://www.chinese-embassy.org.uk/eng/

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http://www.epd.gov.hk/epd

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Legal Aid Department
http://www.lad.gov.hk

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http://www.lcsd.gov.hk
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http://www.heungyeekuk.org

Home Affairs Bureau
http://www.hab.gov.hk

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http://www.hkadc.org.hk/en

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Hong Kong Economic and Trade Office, London
http://www.hketolondon.gov.hk

Hong Kong Permanent Residence

Hong Kong Police Force
http://www.police.gov.hk/

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http://www.hkstp.org/HKSTPC/en_html/en_corporation1_1.jsp

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http://www.ipd.gov.hk

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