

## **Making use of the Poster and Powerpoint on “Human Rights and Rule of Law” in the Senior Secondary Citizenship and Social Development**

### 1. Relevant Theme

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|----------------|--|
| Theme          | Hong Kong under “One Country, Two Systems”   |
| Topic          | The meaning and implementation of “one country, two systems”   |
| Learning Focus | <ul style="list-style-type: none"> <li>● Significance of rule of law: law-abidingness; judicial independence; equality before the law; fair and open trial</li> <li>● Fundamental rights and duties of Hong Kong residents as stipulated in the Basic Law</li> </ul> |

### 2. After the lessons, students should be able to

- acquire the basic knowledge about rule of law and human rights and their relationship, and understand that citizens must be legally bound when exercising their rights, and should express their opinions and aspirations in a legal, peaceful and rational manner.
- apply the basic knowledge and learn the topics related to rule of law and the fundamental rights and duties of Hong Kong residents under the theme of “Hong Kong under ‘One Country, Two Systems’”.

### 3. Brief recommendations on making use of the poster and PowerPoint on “Human Rights and Rule of Law”

- Teachers are recommended to go through this set of materials before teaching the theme of “Hong Kong under ‘One Country, Two Systems’”, so as to enrich students’ basic knowledge.
- Teachers could introduce this set of materials through direct teaching, questioning and group discussions, and remind students of its relevance to the theme of “Hong Kong under ‘One Country, Two Systems’” where appropriate. For example, **when learning the meaning of rule of law and the relationship between human rights and rule of law, law-abidingness must be the premise.** In addition, teachers could bring the text of the Basic Law to classes for reference during the lessons.
- Distribute the worksheet: “Understanding the Relationship between Rule of Law and Human Rights” (i.e. P.3-12) and ask students to apply what they

have learnt in the lessons, and complete the worksheet after the lessons, so as to consolidate their understanding of the topic. Teachers could also give some hints to students according to their needs to help students answer the questions.

**Worksheet:**

**Understanding the Relationship between Rule of Law and Human Rights**

Read the following sources (Source 7 is a video clip) and then answer the questions.

Source 1 : The basic meaning of rule of law

- Equality before the law
- Must act in accordance with the law, and citizens and the government shall abide by the law
- The power of the government and all of its servants shall be derived from law as expressed in legislation and the judicial decisions made by independent courts
- The courts are independent of the executive
- No one can commit an act which would otherwise constitute a legal wrong or affect a person's liberty unless that person can point to a legal justification for that action
- Rule of law is built on the respect for the law and the rights of others
- To achieve the objectives of:
  - maintaining social peace and stability
  - protection of individual safety and property

Sources :

Excerpted from the content of the EDB seminar titled“《基本法》教育研討會系列（二）基本法下的法治和司法獨立” (5 June 2014) by the Non-Permanent Judge of the Court of Final Appeal, the Honorable Mr Justice Patrick CHAN Siu-oi, and the website of the Department of Justice.

Source 2 : Five Articles of the Basic Law

|              |   |
|--------------|---|
| Article 25 : | All Hong Kong residents shall be equal before the law.  |
| Article 27 : | 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 38 : | Hong Kong residents shall enjoy the other rights and freedoms safeguarded by the laws of the Hong Kong Special Administrative Region.   |
| 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.  |
| Article 85 : | The courts of the Hong Kong Special Administrative Region shall exercise judicial power independently, free from any interference. Members of the judiciary shall be immune from legal action in the performance of their judicial functions. |

Sources: The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, extracted from the website "The Basic Law – The Hong Kong Special Administrative Region of the People's Republic of China"  
<https://www.basiclaw.gov.hk/en/basiclaw/chapter3.html>

Source 3: Two Articles about exercising rights and freedoms in the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (the National Security Law) (Relevant Articles of the Basic Law are also included)

|             |  |
|-------------|--|
| Article 2 : | The provisions in Articles 1 and 12 of the Basic Law of the Hong Kong Special Administrative Region on the legal status of the Hong Kong Special Administrative Region are the |
|-------------|--|

fundamental provisions in the Basic Law. No institution, organisation or individual in the Region shall contravene these provisions in exercising their rights and freedoms.

Article 4 : Human rights shall be respected and protected in safeguarding national security in the Hong Kong Special Administrative Region. The rights and freedoms, including the freedoms of speech, of the press, of publication, of association, of assembly, of procession and of demonstration, which the residents of the Region enjoy under the Basic Law of the Hong Kong Special Administrative Region and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong, shall be protected in accordance with the law.

\* Relevant Articles of the Basic Law as mentioned in the above Articles of the National Security Law

Article 1 : The Hong Kong Special Administrative Region is an inalienable part of the People's Republic of China.

Article 12 : The Hong Kong Special Administrative Region shall be 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.

Sources:

- The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, extracted from the website of the Gazette of the Hong Kong Special Administrative Region  
<https://www.gld.gov.hk/egazette/pdf/20202448e/egn2020244872.pdf>
- The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, extracted from the website "The Basic Law – The Hong Kong Special Administrative Region of the People's Republic of China"  
<https://www.basiclaw.gov.hk/en/basiclaw/chapter1.html>

Source 4: Introduction to two of the Articles of the Hong Kong Bill of Rights Ordinance

Article 16 : Everyone may hold any opinion he wishes. He has the freedom to express himself, and to give and receive ideas and information of all kinds through any medium. This freedom may be subject to legal restrictions that are necessary for respect of the rights or reputations of others, or for the protection of national security, public order, or public health or morals.

Article 17 : This Article recognises the right of peaceful assembly, which may be subject to legal restrictions that are necessary in a democratic society for reasons of national security, public safety or public order, or for the protection of public health or morals or the protection of the rights and freedoms of others.

Source:

Excerpted from the publication of the Constitutional and Mainland Affairs Bureau  
[https://www.cmab.gov.hk/doc/en/documents/policy\\_responsibilities/the\\_rights\\_of\\_the\\_individuals/human/BORO-InductoryChapterandBooklet-Eng.pdf](https://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/the_rights_of_the_individuals/human/BORO-InductoryChapterandBooklet-Eng.pdf)

Source 5: There are clear limits in the law to the exercise of rights and freedoms

Pursuant to the Basic Law and the Hong Kong Bill of Rights Ordinance, Hong Kong residents enjoy the freedoms of assembly, speech, procession, demonstration and expression of opinions. The basic freedoms conferred on Hong Kong residents are comprehensive and in no way lesser than the freedoms enjoyed by people of other advanced and free societies.

There are clear limits in the law to the exercise of rights. For example, the enjoyment or insistence on one's rights does not.....provide any excuse to harm other people or their property, or to display acts of violence. Our criminal laws provide a ready example of just where these limits lie and when called upon, these criminal laws are enforced to their full and proper extent by the courts. Therefore, the enjoyment of rights and freedoms also carries with it responsibilities.

Unlawful assemblies involving violence will not be condoned and may justifiably

attract sentences of immediate imprisonment in the future. Greater culpability is also to be ascribed to those who have participated in violent acts, incited others to commit the offence, or have encouraged the unlawful assembly for example by virtue of their status or leadership of others joining the assembly.

Sources: Consolidated from the following three sources



- Excerpted from the English Translation of “In the High Court of the HKSAR Court of Appeal Application for Review No.4 of 2016 (On Appeal from ESCC No. 2791 of 2015) between Secretary for Justice and Wong Chi Fung, Law Kwun Chung, Chow Yong Kang Alex”.  
[https://legalref.judiciary.hk/lrs/common/ju/ju\\_frame.jsp?DIS=111053](https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=111053)
- Excerpted from CJ's speech at Ceremonial Opening of the Legal Year 2020 (From Press Releases of the Government of the Hong Kong Special Administrative Region)  
<https://www.info.gov.hk/gia/general/202001/13/P2020011300622.htm?fontSize=1>
- Excerpted from the Press Summary of the Hong Kong Court of Final Appeal (FACC Nos.8-10 of 2017 on appeal from CAAR No.4 of 2016), Secretary for Justice v Wong Chi Fung, Law Kwun Chung, Chow Yong Kang Alex  
[https://legalref.judiciary.hk/doc/judg/html/vetted/other/en/2017/FACC000008\\_2017\\_files/FACC000008\\_2017ES.htm](https://legalref.judiciary.hk/doc/judg/html/vetted/other/en/2017/FACC000008_2017_files/FACC000008_2017ES.htm)

Source 6: Illegal acts severely undermine the rule of law

It is an obvious fallacy that one can uphold the rule of law without obedience of the Law.....It might seem trite that obedience of the Law is non-negotiable and uncompromisable. Arson and injuries to persons can hardly be justified on whatever political basis.....Civil disobedience is not a license to commit arson, damage citizens' properties and injure persons. Lest it be forgotten that obedience of the Law, safeguard of the Law are not only our duties, but our core values.....Every willful disobedience of the Law would undermine the rule of law.....I do not subscribe to the view that the rule of law will not be affected if those who committed arson and inflict injuries on others are willing and would eventually pay the price by going to prison. Humanity dictates however strong we may disagree with others' political views, in a civilized society, we cannot resort to violence to silence different views.

Source: Excerpted from the Speech of Melissa K. Pang - President of The Law Society of Hong Kong at the Opening of the Legal Year 2020 (13 January 2020) on the website of the Law Society of Hong Kong  
[www.hklawsoc.org.hk/pub\\_c/news/press/20200113.asp](http://www.hklawsoc.org.hk/pub_c/news/press/20200113.asp)

Source 7: Two TV Announcements in the Public Interest prepared by the Information Services Department

|   |   |
|---|---|
| Video 1 : Stop Violence Think of the Consequences ( Length of video : 30 seconds )<br><a href="https://www.isd.gov.hk/eng/tvapi/20_ms292.html">https://www.isd.gov.hk/eng/tvapi/20_ms292.html</a> |  |
| Video 2 : Stop violence Think rationally ( Length of video : 30 seconds )<br><a href="https://www.isd.gov.hk/eng/tvapi/19_ms289.html">https://www.isd.gov.hk/eng/tvapi/19_ms289.html</a>          |  |

Questions:

1. What is the meaning of the rule of law as reflected in the five Articles of the Basic Law listed in Source 2? Explain your answer with reference to Source 1.

Answer for reference :

All the articles of the Basic Law listed in Source 2 are all relevant to the meaning of the rule of law in Source 1. For example, Article 25 indicates equality before the law; Articles 27 and 38 show the respect for and protection of human rights; Article 42 indicates that **Hong Kong residents and other people in Hong Kong shall have the obligation to abide by the laws in force in the Hong Kong Special Administrative Region**; Article 85 shows independent judicial power.

2. Why is it necessary to protect the freedoms of assembly, speech, procession, demonstration and other expression of opinions? When exercising these freedoms, why is it necessary to abide by legal restrictions? Explain your answer with reference to Sources 1-5 and your own knowledge.

Answer for reference:

- Reasons for protecting the freedoms of assembly, speech, procession, demonstration and other expression of opinions:
  - Safeguarding these freedoms is very important for a civilized society. For example, the freedoms of assembly and speech are complementary to each other, enabling citizens to resolve conflicts and solve problems through open dialogues and debates.
  - Safeguarding these freedoms allows people to discuss various issues,



express personal opinions on different views and seek to reach a consensus, facilitating the maintenance of social stability, open and diverse voices.

- Based on the above reasons, there are relevant articles in the Basic Law (Source 2), the National Security Law (Source 3) and the Hong Kong Bill of Rights Ordinance (Source 5) to protect the enjoyment of these rights.
- Reasons for restricting people’s rights to exercise these freedoms:
  - In a civilised society that adheres to the rule of law, citizens enjoy the basic rights safeguarded by the law and shall abide by the law at the same time. Therefore, they have to exercise their rights in a legal way, and must not disregard the responsibility of observing the law in the name of exercising rights.
  - According to the Basic Law (Source 2), Hong Kong residents have the obligation to abide by the laws in force in Hong Kong. According to the National Security Law (Source 3), no institution, organisation or individual shall contravene the legal status of the Hong Kong Special Administrative Region in exercising their rights and freedoms. The Hong Kong Bill of Rights Ordinance (Source 4) stipulates that the freedoms and rights are subject to legal restrictions under certain specific circumstances. For example, where it is necessary to respect others’ rights or reputation, or to safeguard our national security, public order, or protect public health or morals, citizens could be restricted from exercising these freedoms and rights.
  - The rationale of the above-mentioned restrictions on people exercising these freedoms and rights is that, people may easily be self-righteous, and only consider their rights while ignoring national security, the principle of “one country, two systems”, and the rights and interests of other people and the society as whole. This would easily threaten national security, and the society would fall into chaos and bring out serious negative impact, which make other people unable to exercise their rights and freedoms. If these situations cannot be effectively stopped, freedoms and the rule of law would be empty talk. On the other hand, if only law-abidingness is emphasised regardless of people’s rights, the social environment would easily become harsh and demanding, which is detrimental to the progress and development of individuals and the whole society. Therefore, the enjoyment of rights and obedience of the law are both valued and need

a balance in between.

- To sum up, the rights to exercise freedom should not be unrestricted, but governed and regulated by the law. Exercising rights legally co-exists with safeguarding others' legal rights and freedoms. They are not contradictory, and should be the symbol of a civilised society with the rule of law.

3. What damages does violence bring to the rule of law and public order? With reference to Source 6 and your own knowledge, explain your answer with relevant examples.

Answer for reference:

- Under the rule of law, the law does not tolerate any violence or threats of using violence. When offenders use violence, even recklessly and maliciously, it is unacceptable even if they argue that they are driven by their moral or political beliefs. As mentioned in Source 6, abiding and protecting the law is not only our responsibility, but also our core value. Therefore, the law has never allowed people to exercise the rights of assembly, speech, procession and demonstration, etc., by illegal means. Not to mention in a civilised society that adheres to the rule of law, there must be other legal ways or channels for people to advocate their ideas or express their aspirations. All deliberate law-breaking acts would weaken the rule of law, and may pose threats to national security, and lead to the crisis of the collapse of public order.
- If national security and public order cannot be maintained, the nation and society would easily fall into chaotic situations, and it would be difficult to continue to develop steadily. The public also cannot exercise their rights safeguarded by the law, or express their ideas and opinions, and not to mention pursuing and realising their life goals. Therefore, once the rule of law is ruined by violence and the public order is out of control, the nation, society and the general public would be deeply suffered.
- Students should elaborate with specific and appropriate examples to enrich the content of their answers.

4. Why do the courts not tolerate violence? Explain your answer with reference to Source 5 (mainly the third paragraph), Source 6 and Video 1 of Source 7, and your own knowledge.

Answer for reference:

- Violent acts have serious negative impacts on the rule of law and public order. The court is the judicial body to safeguard the rule of law and uphold justice, therefore it has the responsibility to convey a clear message to the society that people have to abide by the law when exercising the rights of assembly, procession, demonstration and related activities, and must not endanger national security, disrupt public order and public peace. Any violent acts would lead to severe punishment in order to serve as an exemplary warning to deter others from breaking the law and imitating the violent acts of offenders to disrupt public order.
  - To sum up, this aims to reflect the determination of the law in safeguarding national security and public order, so as to prevent national security from being threatened, the society falling into a state of disharmony, and obliterating the effectiveness of the law in safeguarding people's rights and freedoms.
5. Suppose you have a friend who intends to express his / her personal opinions by violent and illegal means, what reasons would you use to persuade him / her to do so in a legal, peaceful and rational way? Try to watch Video 2 of Source 7 and explain your answer with other sources and your own knowledge.

Answer for reference:

- It is clearly stipulated in the laws of Hong Kong that when Hong Kong citizens exercise their legal rights, they have to abide by the law and exercise their rights in accordance with the law.
- According to the Basic Law, the National Security Law and the Hong Kong Bill of Rights Ordinance, Hong Kong residents enjoy freedoms of assembly, speech, procession, demonstration and other expression of opinions. The basic freedoms granted to Hong Kong residents are comprehensive and not less favourable to other advanced and free societies. We can express personal opinions in a peaceful and rational way through many legal channels, without resorting to violence.
- Obedience and protection of the law is the responsibility of citizens, as well as the core value of Hong Kong society. It should not be easily shaken in order to avoid damage to the rule of law and disruption of social order.
- If someone is arrested for violent acts, he / she would be very likely liable to severe punishment, and his / her future would be ruined.
- Violence cannot solve problems. Instead, it would only bring hatred and

destruction, is unable to make a better society. Therefore, expressing opinions by violent means would harm others without benefiting oneself. Thus, it should not be adopted.

- Part of the answers for reference of Questions 2-4 in this set of worksheet is excerpted from “In the High Court of the HKSAR Court of Appeal Application for Review No.4 of 2016 (On Appeal from ESCC No. 2791 of 2015) between Secretary for Justice and Wong Chi Fung, Law Kwun Chung, Chow Yong Kang Alex”.  
[https://legalref.judiciary.hk/lrs/common/ju/ju\\_frame.jsp?DIS=111053](https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=111053)

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