**Citizenship and Social Development**

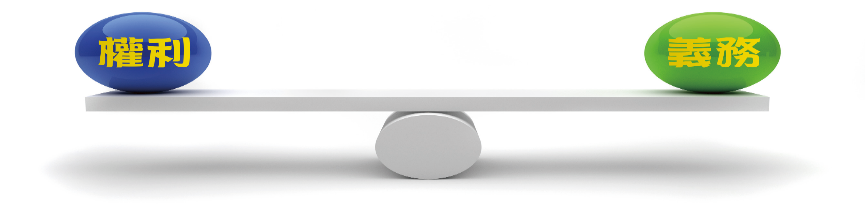
**Theme 1: Hong Kong under “One Country, Two Systems” [For Students’ Use]**

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| **Prior knowledge**  In the basic education, students should have already acquired the following learning experiences:   * a brief understanding of the historical and current development of politics and society in Hong Kong * understanding of the importance of the Constitution of the People’s Republic of China and the Basic Law of the Hong Kong Special Administrative Region (HKSAR) of the People's Republic of China to Hong Kong residents and the basis of the laws of the HKSAR * a preliminary understanding of the identities of Hong Kong residents, fundamental rights and duties of Hong Kong residents as stipulated in the Basic Law |

**Topic:** **The meaning and implementation of “one country, two systems”**

**Fundamental rights and duties of**

**Hong Kong residents**



**(A)：Definition of Hong Kong resident**

Source A：Article 24 of the Basic Law

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| Residents of the Hong Kong Special Administrative Region ("Hong Kong residents") shall include permanent residents and non-permanent residents.  The permanent residents of the Hong Kong Special Administrative Region shall be:   1. Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region; 2. Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region; 3. \* Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2); 4. Persons not of Chinese nationality who have entered Hong Kong with valid travel documents, 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 before or after the establishment of the Hong Kong Special Administrative Region; 5. Persons under 21 years of age born in Hong Kong of those residents listed in category (4) before or after the establishment of the Hong Kong Special Administrative Region; and 6. Persons other than those residents listed in categories (1) to (5), who, before the establishment of the Hong Kong Special Administrative Region, had the right of abode in Hong Kong only.   The above-mentioned residents shall have the right of abode in the Hong Kong Special Administrative Region and shall be qualified to obtain, in accordance with the laws of the Region, permanent identity cards which state their right of abode.  The non-permanent residents of the Hong Kong Special Administrative Region shall be persons who are qualified to obtain Hong Kong identity cards in accordance with the laws of the Region but have no right of abode.  \*See The Interpretation by the Standing Committee of the National People's Congress of Articles 22(4) and 24(2)(3) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Adopted at the Tenth Session of the Standing Committee of the Ninth National People's Congress on 26 June 1999) (see Basic Law Instrument 15) |

**Categories of identity of Hong Kong residents**

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| Hong Kong has long been a place where the Chinese and foreign nationals met. The definition of Hong Kong resident is clearly defined in Chapter III of the Basic Law according to the circumstances of Hong Kong |

Based on Article 24 of the Basic Law in Source A, insert the below items in appropriate places of the relevant category of identity.

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| The permanent residents of the HKSAR   1. c.   Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years  Persons not of Chinese nationality who have entered Hong Kong with valid travel documents, 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  Persons who are qualified to obtain Hong Kong identity cards in accordance with the laws of the Region but have no right of abode   1. d. | The non- permanent residents of the HKSAR  e.  \* Persons of Chinese nationality born outside Hong Kong of those residents listed in categories (1) and (2) |

Chinese citizens born in Hong Kong

\* The permanent residents of the Hong Kong Special Administrative Region shall be:

(1) Chinese citizens born in Hong Kong before or after the establishment of the Hong Kong Special Administrative Region

(2) Chinese citizens who have ordinarily resided in Hong Kong for a continuous period of not less than seven years before or after the establishment of the Hong Kong Special Administrative Region

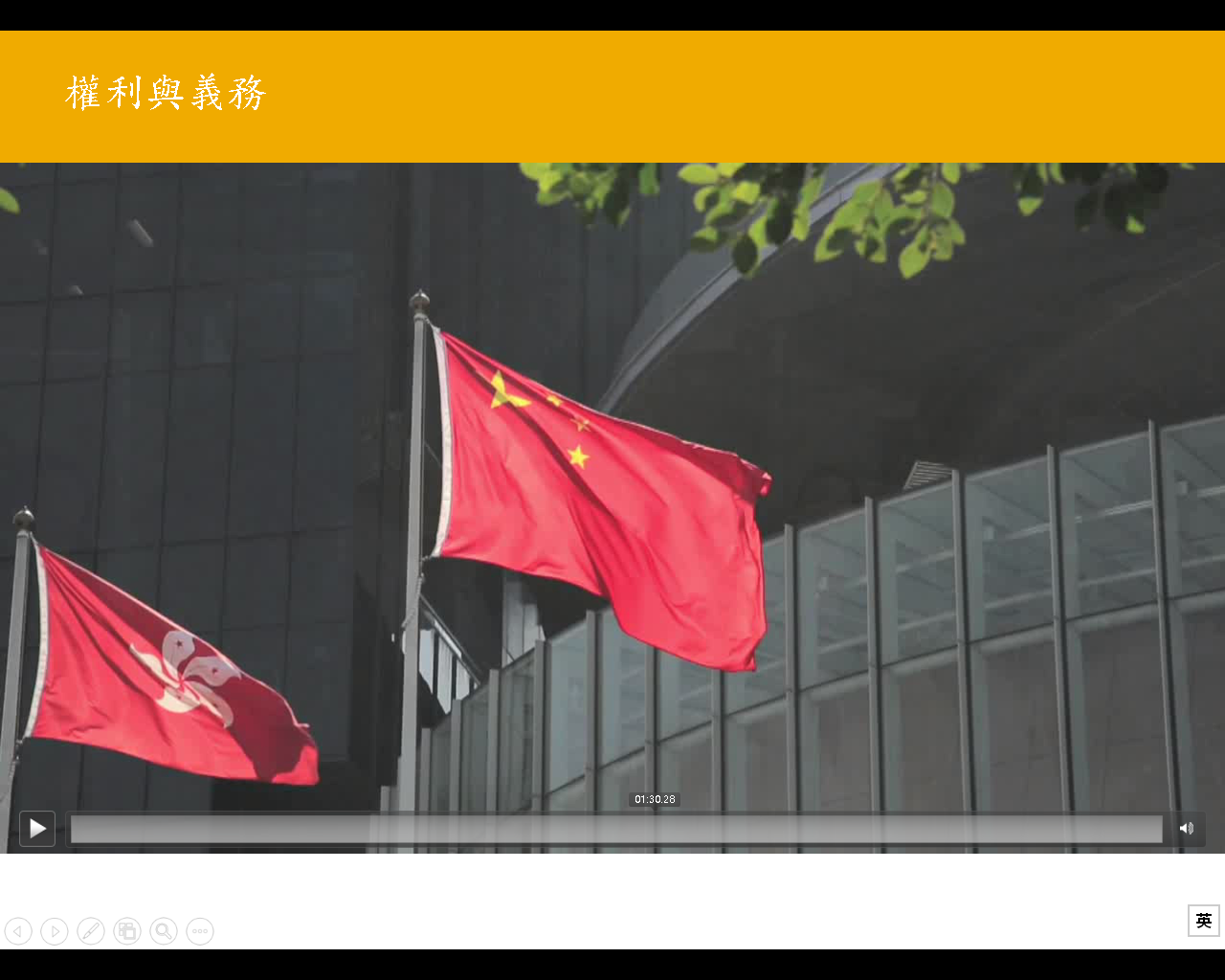
**(B) Fundamental rights and duties**

**of the residents**

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| The so-called “rights” means the rights and freedoms that the law allows citizens to exercise. Most of the fundamental rights granted to Hong Kong residents under the Basic Law are specified in Chapter III of the Basic Law while some provisions are also set out in other chapters.  Hong Kong residents enjoy a wide range of fundamental rights and freedoms. According to the Basic Law, the political, social, economic and personal freedoms of Hong Kong residents are safeguarded in accordance with the laws. |

Source B：Video clip of “Rights and Duties”

The following video shows how the Basic Law protects and regulates people's rights and obligations, explained by Dr Simon Hoey LEE, member of the Basic Law Promotion Steering Committee.

[](https://ls.edb.hkedcity.net/tc/image/self_learning_platform/hkcrd/v06.mp4)  
<https://ls.edb.hkedcity.net/tc/image/self_learning_platform/hkcrd/v06.mp4>  
The video lasts for about 3 minutes

Source C：Fundamental rights and duties of Hong Kong residents

Articles 24 to 42 in Chapter III of the Basic Law stipulate the fundamental rights and duties of Hong Kong residents. In addition, the contents relating to the rights and duties are also stated in other chapters. The relevant articles are broadly classified into the following categories:

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| **Basic Law** | **Content of the articles** |
| **Concerning the legal and judicial aspect** | |
| Article 25 | All Hong Kong residents shall be equal before the law. |
| Article 35 | Hong Kong residents shall have the right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies.  Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel. |

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| **Concerning the right to vote and the right stand for election aspect** | |
| Article 26 | Permanent residents of the Hong Kong Special Administrative Region shall have the right to vote and the right to stand for election in accordance with law. |
| **Concerning the right and freedom to express opinions aspect** | |
| 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. |
| **Concerning the personal aspect** | |
| Article 28 | The freedom of the person of Hong Kong residents shall be inviolable.  No Hong Kong resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment. Arbitrary or unlawful search of the body of any resident or deprivation or restriction of the freedom of the person shall be prohibited. Torture of any resident or arbitrary or unlawful deprivation of the life of any resident shall be prohibited. |
| Article 29 | The homes and other premises of Hong Kong residents shall be inviolable. Arbitrary or unlawful search of, or intrusion into, a resident's home or other premises shall be prohibited. |
| Article 30 | The freedom and privacy of communication of Hong Kong residents shall be protected by law. No department or individual may, on any grounds, infringe upon the freedom and privacy of communication of residents except that the relevant authorities may inspect communication in accordance with legal procedures to meet the needs of public security or of investigation into criminal offences. |
| Article 31 | Hong Kong residents shall have freedom of movement within the Hong Kong Special Administrative Region and freedom of emigration to other countries and regions. They shall have freedom to travel and to enter or leave the Region. Unless restrained by law, holders of valid travel documents shall be free to leave the Region without special authorization. |
| Article 33 | Hong Kong residents shall have freedom of choice of occupation. |

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| **Basic Law** | **Content of the articles** |
| **Concerning the conscience aspect** | |
| Article 32 | Hong Kong residents shall have freedom of conscience.  Hong Kong residents shall have freedom of religious belief and freedom to preach and to conduct and participate in religious activities in public. |
| **Concerning the property rights aspect** | |
| Article 6 | The Hong Kong Special Administrative Region shall protect the right of private ownership of property in accordance with law. |
| Article 105 | The Hong Kong Special Administrative Region shall, in accordance with law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property and their right to compensation for lawful deprivation of their property.  Such compensation shall correspond to the real value of the property concerned at the time and shall be freely convertible and paid without undue delay.  The ownership of enterprises and the investments from outside the Region shall be protected by law. |
| **Concerning the social welfare aspect and freedom of marriage** | |
| Article 36 | Hong Kong residents shall have the right to social welfare in accordance with law. The welfare benefits and retirement security of the labour force shall be protected by law. |
| Article 37 | The freedom of marriage of Hong Kong residents and their right to raise a family freely shall be protected by law. |
| **Concerning the educational and cultural aspect** | |
| Article 34 | Hong Kong residents shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities. |
| Article 136 | On the basis of the previous educational system, 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. |
| Article 137 | 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. |

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| **Basic Law** | **Content of the articles** |
| **Concerning the other rights and freedoms safeguarded by the laws of the HKSAR** | |
| Article 4 | 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 38 | Hong Kong residents shall enjoy the other rights and freedoms safeguarded by the laws of the Hong Kong Special Administrative Region. |
| Article 39 | The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions as applied to Hong Kong shall remain in force and shall be implemented through the laws of the Hong Kong Special Administrative Region.  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 40 | The lawful traditional rights and interests of the indigenous inhabitants of the "New Territories" shall be protected by the Hong Kong Special Administrative Region. |

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| **Basic Law** | **Content of the article and its importance** |
| Article 42 | Hong Kong residents and other persons in Hong Kong shall have the obligation to abide by the laws |
| * Importance of Article 42: It indicates that Hong Kong residents and other persons in Hong Kong shall have the obligation to abide by the laws. * The law is the norm of people's behaviour. When everyone abides by the laws, public order can be maintained. This is an indispensable obligation to maintain the social stability. |

2. With reference to the content of the articles relating to the fundamental rights and duties of Hong Kong residents and the broad classification shown in Sources B and C, select the items below and match the relevant categories.

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| **A**  Abide by the laws |  |
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|  | **G** |
| **B**  **Fundamental rights and duties of Hong Kong residents** |  |
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|  |  |
| **C** | **H** |
| Personal basic |  |
|  |  |
| **D** | **I**  Social welfare and marriage  Law and justice  Culture and Religion |
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|  |  |
| **E** | **J** |

Freedom of movement and freedom to enter or leave the Region

Freedom of marriage and the right to raise a family freely

Private ownership of property

Pay taxes

Obey the traffic rules

Freedom of the person and freedom of communication

Freedom to engage in academic research

Freedom of religious belief

The right to legal advice

The right to social welfare

**(C) Balance between rights and duties**

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| Chapter III of the Basic Law prescribes the fundamental rights and duties of Hong Kong residents. While exercising our rights and enjoying various freedoms, we should also respect the rights and freedoms of others and take into account the restrictions for the overall interests of the society. |

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| * Article 42 of the Basic law stipulates that 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. **The law is the norm of people's behaviour. When everyone abides by the laws, public order can be maintained. This is an indispensable obligation to maintain the social stability.** |

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| Mr Justice CHAN, the non-permanent Judge of the Court of Final Appeal (CFA) pointed out   * The rule of law is built on the **respect for the law** and **the rights of others** * **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. * To achieve the goal：Maintaining peace and stability in society, and safeguarding personal safety and property. |

Source D：Restriction of rights

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| **The legitimate purpose of the restriction of rights** \*1 | **Relevant examples** | |
| **Source of information** | **Content of the event** |
| **A “notice of no objection” is required to obtain first for safeguarding national security, public safety or public order** | Excerpted from the judgment of the Court of Final Appeal  Final appeal Nos. 1 & 2 of 2005  (Chinese Translation) Judgment of LEUNG Kwok-hung, FUNG Ka-keung, Christopher, LO Wai-ming and HONG KONG SPECIAL ADMINISTRATIVE REGION (July 8, 2005) \*2 | In Hong Kong, as in many other places around the world, pavements are often crowded and vehicular traffic is often heavy. The vehicles liable to be affected by traffic congestion include ambulances and fire engines. As enjoyed peaceably and without causing intolerable interference with free passage along the highway or jeopardising crowd safety, the freedoms of assembly, procession and demonstration can be facilitated rather than hindered by reasonable arrangements made by the police. And the ability of the police to make such arrangements is of course greatly enhanced by receiving reasonable notification. |
| **Enforcement of criminal law to restrict violence in order to protect the rights and freedoms of others** | Excerpted from the speech delivered by the Chief Justice of the Court of Final Appeal, Mr Geoffrey Ma Tao-li, at the Ceremonial Opening of the Legal Year 2020 (January 13, 2020) \*3 | We see 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. |
| **To restrict libelous speech in order to protect the reputation of others** | Excerpted from the speech delivered by the Chief Justice of the Court of Final Appeal, Mr Geoffrey Ma Tao-li, at the Ceremonial Opening of the Legal Year 2020 (January 13, 2020) \*3 | The freedom of speech (called the freedom of opinion and expression in the Bill of Rights) states that the rights associated with this freedom carry with them special duties and responsibilities. Their exercise can therefore be restricted, for example, where necessary to respect the rights and reputations of others. The right of peaceful assembly is recognised but are limited in the same way as the freedom of speech. So too the freedom of association. |
| **Public gathering is restricted for the maintenance of public health** | Excerpted from the press release from the Hong Kong Special Administrative Region (HKSAR) Prevention and Control of Disease (Prohibition on Group Gathering) (March 28, 2020) \*4 | Maintaining social distancing is key to delay the spread of COVID-19 in Hong Kong. The Government will publish the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation in the Gazette on March 28, with a view to combating the COVID-19 epidemic with resolute and stringent measures. The Regulation empowers the Secretary for Food and Health (SFH), for preventing, protecting against, delaying or otherwise controlling the incidence or transmission of the specified disease, to prohibit any group gathering of more than 4 persons in any public place during a specified period. |

References：

* \*1 *The Constitution and the Basic Law Education Wall-chart Resources.* The Constitution and the Basic Law Education webpage.
* \*2 *Judgment of LEUNG Kwok-hung, FUNG Ka-keung, Christopher, LO Wai-ming and HONG KONG SPECIAL ADMINISTRATIVE REGION* (para. 135), *July 8, 2005*, excerpted from the judiciary's website, <https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=90445>
* \*3 *CJ's speech at Ceremonial Opening of the Legal Year 2020,* Government’s press release, *January 13, 2020*,<https://www.info.gov.hk/gia/general/202001/13/P2020011300621.htm>
* \*4 *Prevention and Control of Disease (Prohibition on Group Gathering) Regulation*, Government’s press release, *March 28, 2020*, <https://www.info.gov.hk/gia/general/202003/28/P2020032800716.htm>

3. While exercising our rights and enjoying various freedoms, we also **have the responsibility to respect the rights of others and of society as a whole**. With reference to the different legitimate purposes of the restriction of rights in Source D, select the items below and match the relevant categories.

**Prohibition on group gathering regulation**

**A “notice of no objection” is required to obtain first** **for assembly and procession**

**c**

**a**

**Legitimate purposes of the restriction of rights**

**d**

**To restrict acts of violence**

**To restrict libelous speech**

**b**

**e**

**Protection of public order**

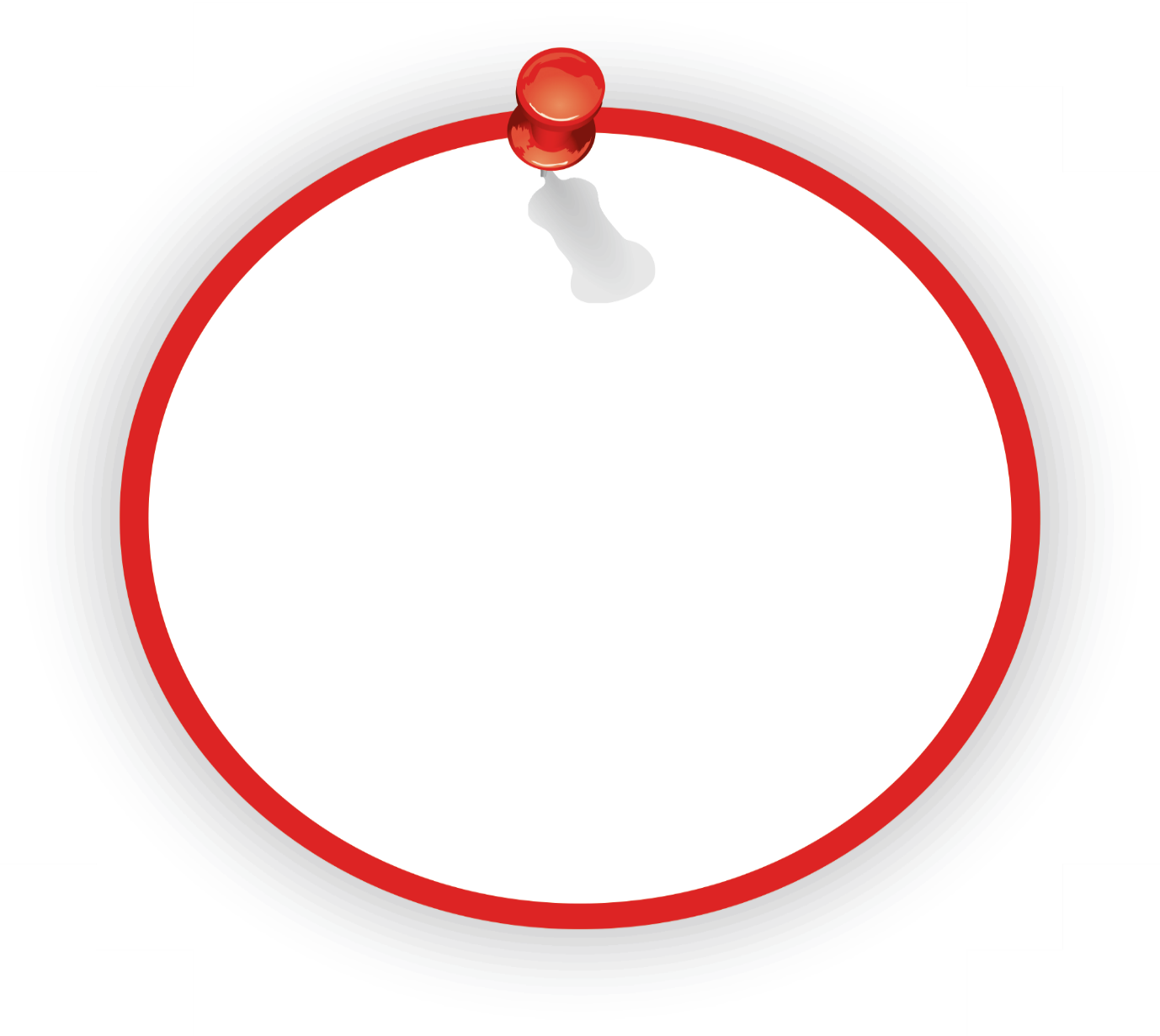
**Safeguarding national security and public safety**

**Protection of the rights and freedoms of others**

**Maintenance of public health**

**Respect the rights or reputations of others**

**Purposes of the restriction of rights**



**Summary**

Chapter III (Fundamental Rights and Duties of the Residents) of the Basic Law stipulates that Hong Kong residents enjoy a wide range of fundamental rights. At the same time, Article 42 also emphasises that Hong Kong residents and other persons in Hong Kong shall have the obligation to abide by the laws in the Hong Kong Special Administrative Region. Therefore, if the laws have clear restrictions on the exercise of rights, we must fulfill the obligations while enjoying our rights.

References:

* *Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China*
* *The Constitution and the Basic Law Education* webpage. Hong Kong: Education Bureau.
* Personal, Social and Humanities Education Section of Curriculum Development Institute (2017). *Resource Package on “The Integrative Use of Generic Skills”*. Hong Kong: Education Bureau.