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Hong Kong: Human Rights One Year On – No Room for Complacency

HONG KONG – One year on from the handover, there is no room for complacency over the diverse human rights challenges and opportunities facing Hong Kong, Amnesty International said in a report issued today.

The organization expressed its concern about legal changes which send a worrying signal of a changing attitude to human rights guarantees, and issued a set of recommendations to the Hong Kong Special Administrative Region Government to ensure human rights safeguards.

“An atmosphere of “business as usual” has masked the persistence of long-standing problems and a process of more subtle and creeping change to the human rights situation in Hong Kong,” said Rory Mungoven, Asia-Pacific Director of Amnesty International, at a press conference in Hong Kong.

“The past year has seen controversial legal changes which the government terms “purely technical”, the true impact of which will only become apparent in the longer term if and when tested in the courts.”

“In 1997, we welcomed the “one country two systems” model as a bold experiment in law and autonomy. Since June, it has stood up well to a host of challenges – not least the Asian crisis, which has shown that resilient human rights protection, the rule of law, government transparency and accountability, community participation and the free flow of information are crucial to the stability and prosperity of Hong Kong.”

“However, on some key issues the Hong Kong leadership has shown signs of a deep conservatism and second-guessing of Beijing. This sells Hong Kong short, it erodes the autonomy model and constrains the climate for debates which are crucial for Hong Kong’s future.” Mr Mungoven added.

Elections to a new legislature proceeded as planned, although on the basis of a greatly reduced franchise and curtailed powers for elected legislators. Legal uncertainties surrounding the Provisional Legislative Council (PLC), appointed as part of the transition, generated controversy throughout the year. Court cases challenging both its validity and whether laws that it enacted violated the Basic Law raised crucial questions about the solidity of key Basic Law principles, including human rights guarantees.

Frequently at issue was how far rights expressed in apparently clear language were safeguarded against encroachment for administrative expediency. It is still early days for the new constitutional order, and crucial issues of the jurisdiction of courts, and the role of new institutions in interpreting the Basic Law remain unresolved, according to Amnesty International.

Amendments to the Public Order and Societies Ordinances, while paying lip service to Hong Kong's commitments under the International Covenant on Civil and Political Rights (ICCPR), expanded the grounds for intervention in legitimate peaceful political activity and protest. This does not auger well for the forthcoming debate on national security laws under article 23 of the Basic Law, Mr Mungoven said.

Noting that public demonstrations were allowed to continue, including the massive annual commemoration of the 1989 June 4 massacre, Amnesty International remained concerned that some peaceful protestors faced arbitrary interference and disproportionate application of the law.

It has not just been the content of change, but the decision-making process and the way issues are presented that has been significant, Mr Mungoven said. In sensitive areas, such as National Security, the government has failed to explain convincingly to the public why changes are needed, especially given Hong Kong's stable social and political environment. Consultation processes have seemed rushed and disingenuous.

Government figures have often sent mixed signals on sensitive issues, generating community concern and suspicion -- such as the Chief Executive's handling of harsh criticism of the government Radio Television Hong Kong's editorial independence -- which prompted a wide-ranging community backlash.

In its report, Amnesty International issued specific recommendations to the Hong Kong SAR government. These include:

- Establishing an independent human rights commission;
- Ensuring the widest possible public consultation and debate on any proposals to legislate under Article 23 of the Basic Law, including full discussion of the objective necessity for any provision;
- Ensuring that any legislation on national security issues, including states of emergency, is fully consistent with the ICCPR.
- Promoting the widest possible public consultation and debate on any legislative proposals of constitutional significance;
- Ensuring transparency of decision-making in institutions responsible for interpreting and advising on the Basic Law;
- Ensuring full resourcing of all parties in legal challenges under the Basic Law

Ultimately, the real measure of developments in Hong Kong over the past year should not be what has changed, but what has improved, Mr Mungoven argued.

“The baseline of 30 June 1997 may initially be useful, but if achievement continues to be measured only by how far the government has preserved the colonial legacy, this makes a mockery of many of the promises of reunification, and the guiding principle of “Hong Kong people ruling Hong Kong”.

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 Amnesty International Hong Kong Regional Office: (+852) 2385 7187
 Interantional Secretariat Press Office: +44 171 413 5566/5729**