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China: rule of law and human rights -- time for institutional reforms

In a memorandum to the Chinese government and National People's Congress, Amnesty International urged the Chinese authorities to push ahead with reforms to establish genuine rule of law and respect for human rights.

Every year hundreds of thousands of people suffer human rights violations because there are too few legal safeguards to protect them and no independent bodies to prevent abuses. The judiciary lacks independence and continues to be subject to political interference, torture is rife and anyone can be detained by the police for years without having committed any crime.

"In the current economic and social climate in China, violations on this scale cannot be ignored for much longer if China is to continue to develop in a stable social environment," Amnesty International said.

"The authorities should take action now," it added.

The Chinese authorities are fully aware of the need to introduce reforms in line with China's rapid economic and social changes, and with the requirements of international trade agreements such as the World Trade Organisation. The reforms introduced so far, however, have focused almost exclusively on the economic aspects of the rule of law and protection of rights.

"Little has been done to give a broader meaning to respect for the rule of law and human rights. This requires institutional reforms and protection of the full range of rights", Amnesty International said.

In its memorandum, the organization makes recommendations for reform of the judiciary, the abolition of two systems of administrative detention, and the introduction of effective measures to prevent torture.

"These reforms would constitute immediate major steps towards establishing the rule of law and respect for human rights," the organization said.

At present, the combined effects of repressive and vaguely worded criminal legislation, the existence of a system of administrative detention, a weak judiciary, powerful law enforcement agencies, and impunity for officials who abuse their power, mean that anyone can suffer human rights abuses at the whim of individuals in a position of power.

Migrant workers, beggars, vagrants and others without fixed residence, including the disabled or mentally ill and homeless children, are randomly picked up off the streets and detained by police without judicial supervision under the system of "custody and repatriation". Those detained have to pay for food and "accommodation", conditions are reported to be appalling and those held are often ill-treated. Over one million people are detained without charge every year under this system.

The system of "re-education through labour" also involves detention without charge or trial and without judicial review, but for set periods ranging from one to four years. Police use the system to punish behaviour or acts which are not formally considered to amount to "crimes". In early 2001, 310,000 people were detained in "re-education through labour" camps -- a figure which has probably increased significantly since then as a result of the government's crackdown on the Falun Gong and the "Strike Hard" campaign against crime launched in April 2001.

The National People's Congress and the State Council should abolish both systems and put powers to review all detention in the hands of the judiciary. The government also needs to take urgent steps to reform the judiciary so that it is free from political interference and can play its proper role to ensure the rule of law is respected.

Reforms are also needed to prevent torture. The government has recognised that torture is used by police and has taken some steps to deal with it. However few safeguards have been introduced to prevent it. This would require lifting current restrictions and obstacles on detainees' access to lawyers, and ensuring that such access is granted to all detainees promptly after they are taken into custody. Another essential preventive measure is to ensure that confessions and statements extracted under torture are not used as evidence in court. This is not the case at present, and there are many reports of people being wrongly imprisoned after being convicted on the basis of confessions extracted under torture.

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