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HONG KONG: NEW PROPOSALS POSE QUESTIONS FOR CIVIL LIBERTIES

Hong Kong -- Amnesty International today welcomed concessions made by the incoming HKSAR authorities to public concern over proposed curbs on freedom of association and assembly, but warned that ambiguities in the revised proposals would continue to generate anxiety and uncertainty.

Amnesty International responded to revised amendments to the Hong Kong Societies Ordinance and Public Order Ordinance issued by the HKSAR authorities after a process of public consultation. The human rights organization was among the 5,500 organizations and individuals that submitted comments on the proposals.

"We are pleased that the incoming authorities have taken some account of the views of Hong Kong's NGO community, but we continue to question the necessity of such changes and whether they will really contribute anything to Hong Kong's already stable society," Amnesty International said. "It remains to be seen how these proposals will be incorporated into law and how that law will be implemented. What looks today like a backdown is still a widening of curbs on existing freedoms."

The incoming HKSAR authorities have flagged that further changes may be needed when they enact laws under article 23 of the Basic Law, governing subversion of state security. According to Amnesty International, "this may not be the end of the story."

The incoming HKSAR authorities continue to justify the new measures on grounds of 'national security', defined as 'the safeguarding of the territorial integrity and the independence of the People's Republic of China'.

"The incoming authorities' use of the term 'national security' is still very vague and sweeping," Amnesty International said. "Under the International Covenant on Civil and Political Rights (ICCPR), 'national security' cannot be invoked to justify restrictions except in serious cases of political or military threat to the entire nation'."

Importantly, the new authorities have said they will direct officials to apply 'national security' considerations in ways which are consistent with what is 'necessary in a democratic society'. According to Amnesty International, it is important that this be given full effect, in line with interpretations of the ICCPR by the Human Rights Committee.

Amnesty International described the new procedure of approval for public demonstrations -- under which organizers must seek a 'notice of no objection' from the Commissioner of Police -- as overly elaborate and unwieldy, especially given the absence of problems Hong Kong has experienced in this area in the past.

The HKSAR proposals are also designed to restrict the foreign links of local political organizations, defined explicitly as 'political parties or organizations, the principal functions of which are to promote and prepare candidates for elections.'

Amnesty International welcomed the more narrow definition on 'political organizations', but remained concerned that legitimate activities and exchanges could still fall under such a ban. The organization noted that the Societies Officer would continue to have very wide discretion over the classification of organizations, albeit subject to appeal.

"It is vital that these new laws be fully consistent with the ICCPR and the maintenance of Hong Kong's open political culture and diverse civil society," Amnesty International said.
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