

Tuesday, 30 June 2020

Law Council President, Pauline Wright, statement on China imposing security laws in Hong Kong

All comments are to be attributed to Law Council President, Pauline Wright.

The Law Council is gravely concerned by reports that China's top legislative body has unanimously passed a sweeping new national security law to be implemented in Hong Kong, with indications that the legislation could be signed into law in the Hong Kong Special Administrative Region (SAR) as early as tomorrow.

From the outset, the legislative process implemented by the National People's Congress Standing Committee (NPCSC) has not been transparent and has bypassed the Hong Kong's Legislative Council with no public consultation.

The text of the law has not been released to the public, which has both prevented the people of Hong Kong from meaningfully participating in the legislative process, and limited the ability of legal experts to review the compatibility of the law with Hong Kong's legal and constitutional framework and China's international legal obligations.

Based on the information available, the Law Council has previously expressed concern regarding a number of the law's troubling and problematic features, which appear to be inconsistent with Hong Kong's basic law and the binding Sino-British Joint Declaration, which guarantee Hong Kong's special autonomy, legal tradition, and the fundamental rights and freedoms of its people.

The Law Council understands that the law will introduce four new crimes that will criminalise secession, subversion, terrorism and collusion with foreign forces.

The Law Council is concerned that these offences will be vaguely defined and vulnerable to abuse by officials, as has been the case with national security laws in Mainland China. In particular, 'subversion of state power' may be used to stifle criticism of the Chinese Government and the Chinese Communist Party, while 'collusion with foreign forces' could capture a very wide range of communications.

There is a fear that broadly defined offences will have a chilling effect on civic life, by making it difficult for the people of Hong Kong to regulate their behaviour to comply with the laws.

It is understood that if a conflict arises, the new national security law will take precedence over Hong Kong laws, with China's NPCSC installed as the final judge. This will deprive Hong Kong courts of their independent and binding power to interpret Hong Kong's laws under the common law.

The Law Council, together with the international legal community, will continue to draw attention to threats to the rule of law and human rights in Hong Kong.

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