

4 January 2021

## LAWASIA STATEMENT OF CONCERN ON INTIMIDATION OF HONG KONG MAGISTRATE

LAWASIA notes with concern reports of the intimidation of a Magistrate and his family members in Hong Kong and calls on the authorities to ensure that any threats to the judiciary and the legal profession are taken seriously and investigated appropriately, and that there are no threats to the independence of the judiciary.

LAWASIA is a regional representative of legal organisations, including bar associations and law societies, individual lawyers and judges, which advocates to promote social justice and global rule of law principles in Asia and the Pacific region.

LAWASIA understands that Chief Magistrate Victor So Wai-tak is one of six magistrates designated by the Chief Executive of Hong Kong to adjudicate cases under the Law on People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region, referred to as the "National Security Law". LAWASIA notes that on 5th November 2020, Chief Magistrate Victor So's office received an anonymous death threat via telephone. It appears that the threat, which targeted the Magistrate and his family, has since been reported to the local police.<sup>1</sup>

LAWASIA joins the Law Society of Hong Kong and the Commonwealth Lawyers Association<sup>2</sup> to condemn the threat made to the magistrate.<sup>3</sup> Any threat to, or intimidation of, the Judiciary or the legal profession is a serious affront to the rule of law. Judges, prosecutors and lawyers must be able to exercise their professional duties freely, independently and impartially and must be protected from intimidation or threat.

LAWASIA has recently expressed its concerns on the content and application of the National Security Law in Hong Kong, noting that the law could have a detrimental impact on binding human rights obligations, such as the principle of legal certainty, due process requirements, independence of the judiciary, judicial review, and on the transparency of the judicial process.<sup>4</sup> At the same time, LAWASIA reiterates that any

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<sup>1</sup> *Hong Kong magistrate handling Jimmy Lai fraud case receives bomb threat after remanding media tycoon in custody*, SOUTH CHINA MORNING POST, 5 Dec. 2020, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3112720/hong-kong-magistrate-handling-jimmy-lai-fraud-case>

<sup>2</sup> Commonwealth Lawyers Association, *Statement regarding judicial intimidation in Hong Kong*, 9 Dec 2020, <https://www.commonwealthlawyers.com/statement/statement-regarding-judicial-intimidation-in-hong-kong/>

<sup>3</sup> *Beijing's liaison office condemns death threat against Hong Kong magistrate in Jimmy Lai case as 'open challenge' to national security law*, SOUTH CHINA MORNING POST, 7 Dec. 2020, <https://www.scmp.com/news/hong-kong/law-and-crime/article/3112920/hong-kong-law-society-condemns-abhorrent-death-threat>

<sup>4</sup> *LAWASIA Statement of Concern on the Application of the National Security Law*, October 28, 2020 available at [https://www.lawasia.asn.au/sites/default/files/2020-10/LAWASIA%20Statement%20on%20the%20Hong%20Kong%20National%20Security%20Law%202020\\_0.pdf](https://www.lawasia.asn.au/sites/default/files/2020-10/LAWASIA%20Statement%20on%20the%20Hong%20Kong%20National%20Security%20Law%202020_0.pdf)

criticism or opposition to the law be expressed peacefully and democratically, and without actions or measures that could undermine the independence of the judiciary.

LAWASIA points to the Basic Principles on the Independence of the Judiciary, adopted in 1985, which reaffirm the widely recognized human rights standards on judicial independence as a part of the right to fair trial as enshrined under the Universal Declaration of Human Rights, 1948 and Article 14 of the International Covenant on Civil and Political Rights, 1966. In particular, Principles 4, 6 and 7 of the Basic Principles mandate Member states to ensure there is no inappropriate or unwarranted interference with the judicial process; that they respect the principle of the independence of the judiciary, and that they provide adequate resources to enable the judiciary to properly perform its functions.<sup>5</sup>

LAWASIA urges the authorities in Hong Kong to investigate any threats to the Judiciary and to the legal profession, and to uphold recognized international principles to ensure an impartial and independent judiciary and legal profession.

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**President, LAWASIA**

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<sup>5</sup> *Basic Principles on the Independence of the Judiciary*, adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985, available at <https://www.ohchr.org/en/professionalinterest/pages/independencejudiciary.aspx>