

## Secretary for Justice on advocating "independence of Hong Kong"

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Following is the transcript of remarks made by the Secretary for Justice, Mr Rimsky Yuen, SC, at a media session after attending the Legislative Council Finance Committee special meeting today (April 1):

Reporter: Do you stand by your statement that merely advocating independence is in breach of the Basic Law and how does this fit in the provision which guarantees freedom of expression in Hong Kong?

Secretary for Justice: First of all, I stand by the statement that the Department of Justice (DoJ) issued. But I'm afraid I cannot agree with the subsequent part of your question. I think in the statement we make it crystal clear that, point number one, the suggestion or any advocacy that Hong Kong should become an independent state is contrary to the Basic Law and in particular, as pointed out in our statement, is contrary to Article 1 as well as Article 12 of the Basic Law because the very fact that the Hong Kong Special Administrative Region was created in 1997 was pursuing to Article 31 of the PRC (People's Republic of China) Constitution and that by itself underlined or underpinned the legal or constitutional status of Hong Kong. So in other words, quite apart from Article 1, it is quite clear that the status of Hong Kong as a Special Administrative Region bespeaks the unique status of Hong Kong. So to suggest or to advocate independence is contrary to the Basic Law. And if you also go to Article 11 of the Basic Law, which also makes it crystal clear that all the other legislations or all the other laws of Hong Kong cannot be inconsistent with the Basic Law and that is exactly the reason why there have been so many explanations or people have been explaining that the Basic Law is of a higher level than the other ordinary legislations or common law. And therefore, if someone is advocating something which is contrary to the

fundamental principle as expounded in the Basic Law, it's quite clearly contrary to the Basic Law.

But point number two, as to whether we should take any action, that's the subsequent part of our statement. What we are saying is, since someone has openly come out to suggest that they are going to act contrary to our Basic Law, therefore, I think as a responsible government and insofar as the Department of Justice is concerned, as a responsible department administering the issues concerning the law, I think we would have to closely monitor the situation. As to what we would do, we would follow the same procedure as in other cases, namely, when things happen, the law enforcement agency would decide whether or not to conduct investigation and if they have the results, they would pass on the investigation results to DoJ. We would look at it. My colleagues would consider the applicable law and the evidence and then will decide what to do. So at this stage, we would not be commenting whether we would be taking what actions.

Reporter: How does your statement fit in with the provision that guarantees the freedom of expression because people are just talking about independence?

Secretary for Justice: I think freedom of expression, as has been accepted in many instances and in fact there can be many examples, freedom of expression is not without limit. For instance, in civil law, there is the law of defamation. That is one example to show that the law concerning freedom of expression, freedom of speech, is not without limit. And therefore, one cannot use freedom of speech as a shield to defend suggestions which are contrary to the fundamental principle expounded in the Basic Law. Therefore, there is absolutely no inconsistency and I hope people should not confuse freedom of expression with suggestion which is quite blatantly contrary to the Basic Law.

(Please also refer to the Chinese portion of the transcript.)

Ends/Friday, April 1, 2016