

DoJ's response to procession by members of legal sector

In response to the procession by certain members of the legal sector today (June 6), a spokesman for the Department of Justice (DoJ) issued the following statement:

The Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 aims to deal with the Taiwan murder case and seeks to plug the loopholes in the current regime for legal co-operation in criminal matters.

The surrender of fugitive offenders and mutual legal assistance regimes in Hong Kong are devised with reference to the guidelines and model treaties endorsed by the United Nations, and are consistent with human rights protection principles that are commonly followed by the international community. For special surrender arrangements prescribed under the Bill, there can be more safeguards for the protection of the rights of the subject, apart from those provided for by the existing Fugitive Offenders Ordinance (FOO).

The Government has been adopting extremely stringent procedures in handling requests for surrender of fugitive offenders. The existing legislation sets out the appropriate human rights and procedural safeguards, as well as the gatekeeping roles of the court and the executive authorities. Executive scrutiny includes the DoJ's examination on whether the surrender request satisfies the legal requirements and the Chief Executive's decision taking into account the DoJ's advice. The judicial process includes open court hearings and application for judicial review (Note 1), habeas corpus (Note 2) or both by the person involved.

The FOO has been operating effectively for over almost 22 years since its enactment, striking a balance between pursuit of fugitives and protection of human rights.

The independence of the Judiciary is constitutionally provided for and enshrined in Article 85 of the Basic Law. At the same time, the tenure of office of judges is protected by Article 89 of the Basic Law.

More importantly, the independence of judges is also reflected in the Judicial Oath, which is a solemn undertaking by every judge to serve the Hong Kong Special Administrative Region and administer justice "without fear or favour, self-interest or deceit". The DoJ firmly believes that the Judiciary and all its judicial officers will continue to exercise judicial power in a fair and just manner, and free from any interference.

Note 1: The Chief Executive's issue of authority to proceed or surrender order is susceptible to judicial review, see *Robert Henry Cosby v Chief Executive of the HKSAR* [1999] HKEC 691, *Cheng Chui Ping v the Chief Executive of the Hong Kong Special Administrative Region and the United States of America* [2002] HKCU 5.

Note 2: *HO Man Kong v Superintendent of Lai Chi Kok Reception Centre* [2011] HKEC 1037 is a case on habeas corpus.

Ends/Thursday, June 6, 2019