

LCQ2: Human rights safeguards under Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019

Following is a question by the Hon James To and a reply by the Secretary for Security, Mr John Lee, in the Legislative Council today (June 5):

Question:

ã€ã€ã€The Government has submitted to this Council a bill which seeks to enable the Government to surrender fugitive offenders under a one-off case-based approach to jurisdictions (including Mainland China) with which Hong Kong has not entered into any long-term surrender arrangements. Earlier on, 130 000 members of the public joined a march to express strong objection to the proposed legislative amendments of the bill, and the government officials of a number of countries as well as some international chambers of commerce have expressed grave concern on the matter. On the other hand, the Government conducted a public consultation lasting for 20 days only and, under the circumstances that the relevant Bills Committee was yet to examine the general merits, principles and detailed provisions of the bill and was yet to listen to public views, the Government indicated on May 20 that "[it] intend[s] to give notice to the Clerk to the Legislative Council (LegCo) for resumption of the Second Reading debate on the Bill on June 12". In this connection, will the Government inform this Council:

(1) whether it has assessed if the hasty law amendment process and insufficiency in public engagement opportunities will draw a strong backlash from the various sectors of society; if it has, of the details; whether it will consider afresh withdrawing the bill so as to maintain social stability; if not, of the reasons for that;

(2) as the United States-China Economic and Security Review Commission, created by the United States (US) Congress, pointed out in a report published on the 7th of last month that the bill would create serious risks for the national security and economic interests of the US and could potentially violate numerous key provisions of the Hong Kong Policy Act, whether the Government has assessed the impacts on US-Hong Kong relations that the passage of the bill will bring about, including whether the US would repeal the Hong Kong Policy Act and whether such a situation would lead to any adverse consequences, such as overseas enterprises moving their regional headquarters out of Hong Kong and implementing large-scale layoffs in the territory; if it has assessed and the outcome is in the affirmative, of the counter measures; and

(3) given that two years ago, some US Congressmen, out of their worries that

the human rights and freedom in Hong Kong would be jeopardised, re-introduced the Hong Kong Human Rights and Democracy Act to the US Congress, proposing the imposition of sanctions against the government officials in Hong Kong and Mainland China who suppress the basic freedoms of Hong Kong residents, including freezing their US-based assets and denying them entry into the US (but the Act was not enacted), whether the Government has assessed, upon the passage of the bill on surrendering fugitive offenders, if some US Congressmen will re-introduce the Hong Kong Human Rights and Democracy Act and what impacts such a situation will bring onto Hong Kong; if it has, of the details; if not, the reasons for that?

Reply:

President,

Having consulted the Panel on Security of the Legislative Council (LegCo) on February 15, 2019, the Hong Kong Special Administrative Region (HKSAR) Government submitted the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 (the Bill) to LegCo on April 3. The Bill aims at enabling us to deal with a case of a Hong Kong resident suspected of murdering another Hong Kong resident in Taiwan, and plugging the loopholes in the current regime of Hong Kong on mutual assistance in criminal matters (including geographical restrictions and impracticable operational procedures) at the same time. The legislative amendment involves time element. We must establish a legal basis prior to the release of the suspect of the homicide case, which is expected to be in October this year the earliest so that the Government can make necessary preparation for bringing the suspect to face due legal sanction.

Since putting forward the proposal, the Government team has been explaining the proposal to various sectors of the community and listening to their views. Members of the Government team, including Secretaries of Departments and Directors of Bureaux, met with various organisations and sectors, local and overseas chambers of commerce, foreign envoys and local communities, etc. on numerous occasions to have dialogues and exchanges. From our first-hand experience, face-to-face explanation by government officials and their point-to-point responses could often help ease such worries and rectify some incorrect sayings in the community. The Government team will continue to work hard on providing explanations for enhancing the understanding of the Bill among members of the public.

My reply to the three parts of the question is as follows:

(1) By international consensus, surrender of fugitive offenders is executed to fight organised and cross-boundary crimes and a commonly accepted means to reduce crimes effectively. The existing Fugitive Offenders Ordinance (FOO) has made reference to the model treaty promulgated by the United Nations and is in line with the international common practice in respect of human rights and legal procedures. Also, it has balanced the needs of both apprehending fugitive offenders and protecting human rights. With the proposed special surrender arrangements prescribed under the Bill by the Government, there

will only be more instead of fewer requirements for protection of the rights of the subject than under the existing F00.

With the principle of providing more instead of fewer safeguards in making special surrender arrangements, and having considered the specific views and concerns expressed by various sectors, the Government promulgated on May 30 the provision of additional safeguards in the following three aspects to ease the concerns: (1) limiting the application of special surrender arrangements to the most serious offences only by raising the threshold requirement for applicable offences from imprisonment for more than three years to seven years or above; (2) including safeguards that are in line with common human rights protection in the activation of special surrender arrangements, such as presumption of innocence, open trial, legal representation, right to cross-examine witnesses, no coerced confession, right to appeal, etc.; and the requesting party must guarantee that the effective limitation period of the relevant offence has not lapsed; and (3) enhancing protection for the interests of surrendered persons, such as processing only requests from the central authority (as opposed to the local authority) of a place, following up with the Mainland the arrangements for helping sentenced persons to serve their sentence in Hong Kong, negotiating appropriate means and arrangements for post-surrender visits, etc. The policy goals and needs of the Bill are clear. To achieve such goals and needs, the Government considers it necessary to proceed with the legislative process.

(2) Our unique status and advantages under "one country, two systems" are conferred on the HKSAR by the Basic Law. Hong Kong is a separate customs territory and participates in such international organisations as the World Trade Organization and the Asia-Pacific Economic Cooperation, etc. as a separate member. Hong Kong also establishes mutually beneficial relationships with our trading partners. Since Hong Kong's return to the Motherland, the United States (US) has continued to maintain and expand economic and trade ties with Hong Kong on the basis of our unique status. In terms of individual economies, the US is Hong Kong's 2nd largest merchandise trading partner in the world, while Hong Kong is the US' 10th largest export market. For many years, the US has been enjoying the largest trade surplus with Hong Kong among its global trading partners, valued at US\$33.8 billion in 2018. Hong Kong and the US also maintain close investment relations. In 2017, the US was the 7th major source of inward direct investment into Hong Kong, while the US was the 9th major destination of outward direct investment from Hong Kong.

The latest report on the United States-Hong Kong Policy Act published by the US Department of State in March 2019 continues to affirm this special treatment of Hong Kong. The report also recapitulates the fact that "the United States continues to have deep economic and cultural interests in Hong Kong", and that "co-operation between the US government and the Hong Kong government remains broad and effective in many areas, providing significant benefits to the US economy and homeland security". We believe that it is in the US' and Hong Kong's mutual interests to maintain and promote our bilateral relations. At the same time, such bilateral relations can only be maintained and developed on the premise of mutual respect and co-operation.

(3) Since the reunification, the HKSAR has been implementing "Hong Kong

people ruling Hong Kong” and a high degree of autonomy in accordance with the Basic Law, fully and successfully implemented the “one country, two systems” principle. Article 27 of the Basic Law stipulates that Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike. Article 39 also stipulates that the provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong shall remain in force and they are implemented by the Hong Kong Bill of Rights Ordinance. We will not allow the illegal suppression of the human rights and freedom in Hong Kong.

The proposals in the Bill target the fugitives who committed serious crimes and do not affect the legal rights and freedom of individuals. On the other hand, Hong Kong's judicial independence ranks 1st in Asia and 8th in the world. Judges exercise judicial power independently, free from any interference. Eminent judges from other common law jurisdictions, such as the United Kingdom, Australia and Canada, have been appointed as non-permanent judges of the Court of Final Appeal. Any case-based surrender request must fully comply with the law and relevant requirements under the arrangement and the safeguards of the rights of individual, including the application for habeas corpus, review of the executive decisions, and the judicial review. In this respect, the Government and the Judiciary have the duty to perform their powers and responsibilities.

We reiterate that amending the F00 is a local legislation exercise, the internal affairs of the HKSAR to which overseas legislatures should respect. The Economic and Trade Offices of the HKSAR in the US have maintained liaison with the local politicians, government officials, businessmen and think tank personnel, and provided explanations to ease their unnecessary worries.

Thank you President.

Sample of prepackaged vegetarian bean curd roll detected with non-permitted preservative

â€‹The Centre for Food Safety (CFS) of the Food and Environmental Hygiene Department today (June 5) announced that a sample of prepackaged vegetarian bean curd roll was found to contain sorbic acid, a preservative not permitted to be added in soy protein powders and mixes, and the preservative was not declared on its food label, breaching the food labelling regulations. The CFS is following up on the incident.

Product details are as follows:

Product name: Not available in English
Place of origin: China
Manufacturer: Huizhou Huamei Food Co Ltd
General agent: Chung Hing Development Co
Net weight: 110 grams per pack
Best-before date: July 28, 2019

"Following up on cases referred by a relevant organisation, the CFS collected the above-mentioned sample from a retail outlet in Tsuen Wan for testing. The test result showed that the sample contained sorbic acid at a level of 88 parts per million. According to the Preservatives in Food Regulation (Cap 132BD), sorbic acid is not permitted to be added in soy protein powders and mixes," a CFS spokesman said.

The CFS has informed the vendor concerned of the irregularity and instructed it to stop sale and remove from shelves the affected batch of the product. Should there be sufficient evidence, prosecution will be initiated.

The spokesman said, "Sorbic acid is a preservative of low-toxicity. Based on the level detected in the above-mentioned sample, adverse health effects will not be caused under usual consumption."

The spokesman reminded the food trade that the use of preservatives in food must comply with the Preservatives in Food Regulation (Cap 132BD). Offenders of the regulation are liable to a maximum fine of \$50,000 and six months' imprisonment upon conviction.

The CFS will inform the trade, continue to follow up on the case and take appropriate action. Investigation is ongoing.

[CFS finds Salmonella in Hainanese chicken rice sample](#)

The Centre for Food Safety (CFS) of the Food and Environmental Hygiene Department announced today (June 5) that a sample of Hainanese chicken rice was found to contain a pathogen, Salmonella. The CFS is following up on the case.

"Following up on a food complaint, the CFS collected the above-mentioned sample from a restaurant in Wong Tai Sin for testing. The test result showed the presence of Salmonella in 25 grams of the sample, exceeding the criterion of the Microbiological Guidelines for Food which states that Salmonella should not be detected in 25 grams of a ready-to-eat food sample," a CFS spokesman said.

The spokesman said that the CFS had notified the restaurant concerned of the unsatisfactory test result and instructed it to stop selling the food item concerned immediately. The CFS has also provided health education on food safety and hygiene to the person-in-charge and staff of the restaurant, and requested it to review and improve the food production process and carry out thorough cleaning and disinfection.

"Salmonella infection may cause fever and gastrointestinal upset such as vomiting, abdominal pain and diarrhoea. The effects on infants, young children, the elderly and patients with a weak immune system could be more severe and may even lead to death," the spokesman said.

The CFS will continue to follow up on the incident and take appropriate action to safeguard food safety and public health.

[CHP investigates case of measles infection](#)

The Centre for Health Protection (CHP) of the Department of Health (DH) is today (June 5) investigating a case of measles infection.

The case involves a 33-year-old man with good past health, who has developed fever since May 31 and rash since June 2. He sought medical advice from a general practitioner on May 31 and attended the Accident and Emergency Department at United Christian Hospital on June 3 and was admitted today for treatment.

A laboratory test of his respiratory specimen was positive for the measles virus. He has been in a stable condition all along. The patient's measles vaccination history is unknown. He travelled to Shenzhen during the incubation period but had no travel history during the communicable period.

According to the patient, he did not have contact with measles patients during the incubation period. His home contacts have remained asymptomatic so far and have been put under medical surveillance.

Upon notification of the case, the CHP immediately commenced epidemiological investigations and conducted relevant contact tracing. Investigations are ongoing. The public places the patient visited during the communicable period are listed in the appendix.

A spokesman for the DH said, "Those who might have had contact with the patient during the period of communicability are urged to observe if they have developed measles-related symptoms, and to seek medical treatment immediately if such symptoms appear. If they need to visit any health care

facilities during the period of medical surveillance, they should also report whether they have symptoms and prior measles exposure history to the healthcare workers so that appropriate infection control measures can be implemented at the healthcare facilities concerned to prevent any potential spread."

The spokesman explained that measles is a highly infectious disease caused by the measles virus. It can be transmitted by airborne droplets or direct contact with nasal or throat secretions of infected persons, and, less commonly, by articles soiled with nose and throat secretions. A patient can pass the disease to other persons from four days before to four days after the appearance of skin rash.

"The incubation period (the period from infection to appearance of illness) of measles ranges from seven days to 21 days. Symptoms of measles include fever, skin rash, cough, runny nose and red eyes. If symptoms arise, members of the public should wear surgical masks, stop going to work or school and avoid going to crowded places. They should also avoid contact with non-immune persons, especially persons with weakened immunity, pregnant women and children aged below 1. Those suspected to have been infected are advised to seek medical attention as early as possible and reveal relevant contact history of measles to healthcare professionals," the spokesman advised.

"Vaccination is the most effective way to prevent measles. Members of the public who are planning to travel to places with high incidence or outbreaks of measles should review their vaccination history and past medical history, especially people born outside Hong Kong who might not have received measles vaccination during childhood. The history of measles vaccination in Hong Kong is available in the CHP's [measles thematic page](#). Those who have not received two doses of measles-containing vaccines, with unknown vaccination history or unknown immunity against measles are urged to consult their doctor for advice on vaccination at least two weeks before departure," the spokesman said.

Besides being vaccinated against measles, members of the public should take the following measures to prevent infection:

- Maintain good personal and environmental hygiene;
- Maintain good indoor ventilation;
- Keep hands clean and wash hands properly;
- Wash hands when they are dirtied by respiratory secretions, such as after sneezing;
- Cover the nose and mouth while sneezing or coughing and dispose of nasal and mouth discharge properly;
- Clean used toys and furniture properly; and
- Persons with measles should be kept out of school till four days from the appearance of rash to prevent spread of the infection to non-immune persons in school.

For more information on measles, the public may call the 24-hour health

education hotline 2833 0111 or visit the CHP's [measles thematic page](#). For outbreak news of measles outside Hong Kong or the latest travel health advice, please visit the website of DH's [Travel Health Service](#).

Red flags hoisted at Deep Water Bay Beach and Big Wave Bay Beach

Attention TV/radio announcers:

Please broadcast the following as soon as possible:

Here is an item of interest to swimmers.

The Leisure and Cultural Services Department announced today (June 5) that the Environmental Protection Department has classified the water quality at Deep Water Bay Beach and Big Wave Bay Beach in Southern District, Hong Kong Island, as Grade 4, which means the beaches are not suitable for swimming. The red flags have been hoisted. Beach-goers are advised not to swim at the beaches until further notice.

The red flag was hoisted at Big Wave Bay Beach earlier because the sandy area of the beach was uneven.