

Opening remarks by S for S at press conference on Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 (with video)

The Secretary for Justice, Ms Teresa Cheng, SC; the Secretary for Security, Mr John Lee; and representatives of the Department of Justice and the Security Bureau, held a press conference on the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 this afternoon (May 7). Following is the English translation of the opening remarks by Mr Lee at the press conference:

The Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill 2019 proposed by the Government aims to deal with two practical issues: 1) a murder case which happened in Taiwan in early 2018; and 2) at the same time to plug the loopholes in the mechanisms. These include the geographical restrictions prohibiting us from handling fugitives who have committed crimes at certain places, and the lack of effective arrangement in the surrender of fugitives with places that we have not signed any long-term agreements with. The Government's proposed amendments, which have been thoroughly and prudently considered, can ensure that serious crime offenders cannot avoid justice through this loophole while protecting public and social safety.

As we have reiterated many times, the proposed amendments are applicable to any jurisdiction without pinpointing a particular one. In particular, they are not tailor-made for the Mainland. Most important of all, the Bill targets those who have committed serious criminal offences, and not the law-abiding general public. After the Bill has been passed, Hong Kong can use the same set of standards to handle serious criminal cases effectively by case-based surrender arrangements with any jurisdiction that it has not signed any long-term surrender arrangement with. Hong Kong has currently signed long-term agreements with only 20 jurisdictions, which means that there are over 100 countries that Hong Kong has yet to sign agreements with. It is our clear policy goal to sign long-term agreements. The proposed case-based arrangement is only a supplementary measure. Case-based surrender will not be adopted once a long-term agreement has been signed. The proposed legislative amendments will not affect any long-term agreements in force.

Surrender of fugitives is the international commitment to fight organised crimes in order to reduce the threat of crimes. The United Nations has promulgated a model treaty for the reference of different jurisdictions through a resolution. The existing Fugitive Offenders Ordinance makes reference to this model treaty and is in line with the common practice in

human rights and legal procedures. These human rights and procedural safeguards have been operating effectively for over almost 22 years since the enactment of the Fugitive Offenders Ordinance. They have balanced the needs of both apprehending fugitives and protecting human rights.

All existing human rights and procedural safeguards provided for in the current legislations will be maintained under the case-based arrangements. These include no surrender for a political offence, the double criminality principle, protection against the death penalty, restriction against re-surrender, rule against double jeopardy, application for habeas corpus and right to appeal and judicial review, etc. The Government can impose additional limitations in the case-based arrangements to protect the rights of the fugitive concerned. The Government will thoroughly and carefully consider each case and has the full discretion on whether a case-based surrender request should be acceded to. The executive authority and the court will perform their respective gate-keeping roles in handling all surrender requests. The Government will reject any surrender request if it could not meet the legal requirements.

The Taiwan homicide case has shown that similar serious crimes, including wounding and bombing, can happen in any place and at any time. It is just a question of who the unfortunate victim may be. We could not afford to allow serious crime offenders to avoid justice by seeking refuge in Hong Kong, which may even pose threats to our safety.

The suspect in the Taiwan murder case was sentenced to 29 months in prison for money laundering on April 29 and could be released as early as October this year. It has been over a month since the House Committee has requested the setting up of a Bills Committee. The government team has yet to be able to explain and exchange views with lawmakers on matters relating to the Bill. Given that the community has raised many views during this period but the Government has no opportunity to respond in detail to them at the Bills Committee, we are therefore holding a press conference today to respond to these views publicly. But I have to reiterate that the Bills Committee is the most suitable avenue for discussion of these matters and it is also the proper function of the Legislative Council. I hope that the Bills Committee can start scrutinising the Bill as soon as possible.