

Transcript of media session by Secretary for Justice

Following is the transcript of remarks by the Secretary for Justice, Ms Teresa Cheng, SC, at a media session after the meeting of the Panel on Administration of Justice and Legal Services at the Legislative Council today (January 28):

Reporter: Secretary, just regarding the Heritage Foundation's report, are you dismissing some of the concerns expressed in the report that there is increased interference from the Mainland? The second question is on your popularity. Do you think it is due to the fact that the Department of Justice didn't prosecute C Y Leung and that is harming your popularity? How would you deal with that?

Secretary for Justice: First of all, on your second question, I can't really comment on how people comment. That's very important because they may have certain facts or they may not have certain facts. In fact, I won't want to comment on that. But insofar as the popularity survey is concerned, of course, I paid due regard to it and I am very aware of the concerns that the public have expressed through the survey. But I want to assure the public that I would continue to discharge my duty as the Secretary for Justice together with my colleagues at the Department of Justice with resolve, humility and professionalism. As to the first point about the Heritage Foundation, it is very important to bear in mind that judicial independence is well engraved and well embedded in Hong Kong's legal system. We are ranked number one in Asia for a number of years, in the World Economic Forum's the Global Competitiveness Report. The arrangements for the NPCSC (Standing Committee of the National People's Congress) to provide certain interpretation on the Basic Law have been in place since 1997 and have been working well for Hong Kong in the light of the World Bank Indicators showing that our ranking on the rule of law has moved from 69.9% in 1996 all the way up to 93.8% in 2017. We moved from top 70th to top 14th on our rule of law. So, we are very confident that we will continue to uphold the rule of law and provide a very good system for both businesses as well as natural persons in Hong Kong.

Reporters: Secretary, could you enlighten us whether you are personally involved when giving your personal opinion, without encroaching on the merit of the case? Whether you are personally involved in the C Y Leung's case? And on the Heritage Foundation's report, do we have your words that you will not seek NPCSC's interpretation during your term of office?

Secretary for Justice: Insofar as the working within the Department of Justice is concerned, irrespective of whichever case, we are not going to divulge. It is a matter of professional basic ethics that everybody expected that the discussions especially involving legal matters are to be contained within the Department of Justice and kept confidential. Therefore, I would

not, unfortunately, be able to respond to your first question. As to the question that you asked based on the Heritage Foundation's comment, may I perhaps deal with it in this way – you asked whether I can guarantee or promise – well I am sure you would appreciate that under the Basic Law which is a national law, the ultimate power to interpret the Basic Law rests with the NPCSC under Article 158. Now whether and how they are going to exercise that power is not something that I can embark upon or to comment upon. And if the case so requires, that may happen. But having said that, one must not forget that under the arrangement of the Basic Law, insofar as any provisions that are set out in the Basic Law is concerned that relates to Hong Kong autonomous arrangements, that is our own matters. The court in Hong Kong will and can make their own interpretation of the provisions in the Basic Law, and therefore, will be able to do that without the need to seeking any interpretation from the NPCSC. And most importantly, it is not just a matter of law. Any decision on any case requires the consideration or an application of the facts to the law in order for the decision to come about. It is the court of Hong Kong, the Court of Final Appeal in Hong Kong, in particular, that is going to make that decision at the end of the day. Thank you very much.

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