JUSTICE

THE HONG KONG SECTION OF THE INTERNATIONAL COMMISSION OF JURISTS

8th September 1999.

The Chairman,
Panel on Home Affairs,
Legislative Council of the HKSAR,
Legislative Council Building,
8 Jackson Road, Central,
HONG KONG.

Dear Madam,

Re: The Report of the HKSAR in the light of the ICCPR

We thank you for your letters dated 21 June 1999 and 31 August 1999 in respect of the captioned topic. We apologize for not being able to forward our submissions until today.

We are pleased to inform you that JUSTICE will send a delegation on 23 September 1999 to attend the meeting of your panel. We shall inform you of the names of the members of the delegation later.

Before we proceed to the submissions before your panel, may we indicate that we are writing a commentary of the report of the HKSAR Government for transmission to the Human Rights Committee. We are also party to a joint submission which has just been transmitted to the Human Rights Committee. Further, we are planning to send one or two of our members to Geneva to observe the proceedings before the Human Rights Committee in late October 1999.

The Report covers the developments in Hong Kong up to 30 June 1998. The HKSAR Government has to provide the Human Rights Committee with up-to-date material. It is desirable that such

material should also be made available to the NGOs which have given an indication of their inclination to attend the hearings before the Human Rights Committee.

THE RULE OF LAW

The HKSAR Government claims in paragraph 29 of Part I of the Report that "the fundamental basis for the protection of human rights is the rule of law maintained by an independent judiciary" and then proceeds to outline two principles of the rule of law: the supremacy of the law, and equality before the law. Events which occurred after 1 July 1997 cause us to seriously doubt whether protection of human rights in Hong Kong can still be maintained on a firm basis of the rule of law. The same events also give rise to serious concern that the two principles stated above have been violated by the HKSAR Government.

We have in mind the series of events following the delivery of the right of abode judgments by the Court of Final Appeal on 29 January 1999 and leading to the issuing of a resolution entitled "interpretation" by the NPC Standing Committee on 26 June 1999 of provisions of the Basic Law which have previously been interpreted by the CFA in the right of abode judgments.

The HKSAR Government openly acknowledged that it held a view on those provisions of the Basic Law that was different from that pronounced by the CFA. In seeking an interpretation from the NPCSC, the HKSAR Government indicated its determination not to respect the judgments of the CFA and to give effect to them.

The rule of law depends on the existence of an independent judiciary, an independent and fearless legal profession, and, above all, on a government which abides by law. As Alexander Hamilton said, the judiciary is the least dangerous branch of government. It has no means to enforce its judgment against anybody. Thus the importance of the last element can readily be seen. It is of little use to have an independent judiciary handing down judgments against the government if the government regularly ignores them. In this regard, we seriously question the commitment of the HKSAR Government towards upholding the principle of supremacy of the law.

In our opinion, the commitment of the HKSAR Government towards upholding the principle of equality of the law is also in perilous grounds. Unlike any other litigant before the courts, the HKSAR Government, when faced with a judgment of the highest court in Hong Kong not in its

favour, may now decide whether to accept it or to have it overturned (whether prospectively to stop subsequent claimants relying on test cases or retrospectively to refuse to implement a judgment with impunity) by way of seeking an "interpretation" of relevant provisions of the Basic Law. Given the relatively broad scope of the Basic Law, an issue litigated before the courts can be recast in terms of provisions of the Basic Law and then put before the NPCSC. There is theoretically nothing to stop the HKSAR Government to seek an "interpretation" in the absence of a court case, in anticipation of a court case, during a court case, and subsequent to the final adjudication of a court case (as it had done on this occasion).

Indeed the HKSAR Government has refused to state publicly the situations or conditions under which it would again seek an "interpretation" from the NPCSC; or the limits beyond which, or issues on which, it would not seek an "interpretation" from the NPCSC.

The claims in paragraphs 30 and 36 of Part I of the Report of Basic Law litigation being effective means of protection of human rights now sound increasingly hollow. The same can be said of paragraph 8 of Part II of the Report.

Further, the HKSAR Government in seeking an "interpretation" has circumscribed the constitutional role of the Court of Final Appeal and undermined its authority and standing. According to Karl Marx, the duty of a judge is to interpret the law according to his sincere understanding of it when it is applied to a particular situation. Judges of the CFA did exactly that. But now the threat of rebuke and intervention by the NPCSC through "interpretation" will have a "chilling effect" upon judges of the HKSAR when they adjudicate cases which may result in social, monetary or political inconvenience to the HKSAR Government.

Therefore, we are going to urge the Human Rights Committee to express to both the Central People's Government and the HKSAR Government its most serious concern about the following:

- the deterioration of the state of the rule of law in Hong Kong,
- the doubt over the continued commitment of both Governments to maintain the independence of the judiciary and power of final adjudication, and
- the doubt over the continued commitment of both Governments towards effective protection of human rights through the courts of HKSAR.

The lack of respect of the rule of law by the HKSAR Government can also be seen from the policy of the Immigration Department to disregard the rights of persons liable to removal to

seek remedies from the courts, and not to wait for the outcome of pending legal proceedings before removing them out of Hong Kong. Such a policy impedes access to justice as consideration by the Legal Aid Department of applications for legal aid by such persons may be a sufficient trigger for the Immigration Department to execute the removal order.

AMENDMENTS TO THE HONG KONG BILL OF RIGHTS ORDINANCE (CAP 383)

We note that the Human Rights Committee expressed its concern in 1995 over the absence of legislation to provide effective protection against violations of the rights of the ICCPR by non-government actors. The HKSAR Government sets out in paragraphs 9 to 18 of Part II of the Report its own understanding of the events which led to the adoption in 1998 by the Provisional Legislative Council of amendments to the Hong Kong Bill of Rights Ordinance (Cap 383) that sought to undo the effect of 1997 amendments to the same. Our understanding of paragraph 17 suggests that the HKSAR Government refuses to accept that legislations which are inconsistent with the provisions of the ICCPR should not be maintained and be available for private citizens to rely upon in litigation with other private citizens if the application of such legislation by the government or a public authority against a private citizen is inconsistent with the provisions of the ICCPR. The claim by the HKSAR Government of legal uncertainty arising out of differing interpretations of the 1997 amendments is a lame excuse, since an authoritative interpretation by the courts of the HKSAR will eliminate the uncertainty. The Secretary for Justice has capacity to intervene in the public interest in proceedings involving those amendments. The HKSAR Government should now state its understanding of the effect of Article 39 of the Basic Law on the reliance of legislative restrictions of human rights guaranteed under the ICCPR by non-government actors and as to whether persons may obtain remedies from the courts of the HKSAR against non-government actors in respect of violations of their human rights guaranteed under the ICCPR by such non-government actors.

COMPLAINTS AGAINST THE POLICE

The alleged improvements set out in paragraph 51 of the Part II of the Report fail to address the concern of the Human Rights Committee that the investigation in respect of complaints against police remains in the charge of the police force. The proposals of the Independent Police Complaints Council have been left unimplemented. We ask the Committee to recommend the speedy enactment of those proposals.

AMENDMENTS TO THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE (CAP 1)

Both paragraph 29 of Part I and paragraphs 53 to 57 of Part II of the Report fail to set out the basis for the opposition of the amendment to section 66 of the Interpretation and General Clauses Ordinance (Cap 1) and the addition of the definition of "State". In the context of the amended section 66, all laws of the HKSAR will not be applicable to any state organ operating in Hong Kong (including the Commissioner of the Foreign Affairs Ministry in Hong Kong, the Hong Kong Garrison of the People's Liberation Army, and Xinhua News Agency), unless there is provision in a particular Ordinance for application or it is shown to apply "by necessary implication". The amendment to section 66 simply failed to reflect truly the change of sovereignty and the new constitutional order of Hong Kong. The effect of the new section 66, on the other hand, is that the said subordinate organs of the Central People's Government or the Central Authorities operating in Hong Kong are not, by ordinary parlance, bound by the laws of the Hong Kong Special Administrative Region. We consider that section 66 should be repealed to give effect to Article 22 of the Basic Law. We are going to urge the Human Rights Committee to express as a matter of serious concern that the amendment to section 66 of the Interpretation and General Clauses Ordinance (Cap 1) violates the principle of equality before the law and fails to accord to the ordinary citizen the equal protection of the law they deserve in dealings with the said sub-ordinate state organs.

EMERGENCY REGULATIONS

The Human Rights Committee had previously expressed its view of incompatibility between Art 18 of the Basic Law and Art 4 of the ICCPR. The HKSAR Government sought to address this matter in paragraph 91 of Part II of the Report by suggesting that Article 18 of the Basic Law would be read with Article 39 of the Basic Law. We are not assured by this contention and shall ask the Human Rights Committee to maintain its concern.

INHUMAN AND DEGRADING TREATMENT OF DETAINEES BY IMMIGRATION OFFICERS

The suggestion in paragraph 119 of Part II of the Report is now suspect following the spate of complaints of ill-treatment (including strip searches) by immigration officers of right of abode

claimants while under detention.

RIGHT OF ABODE AND FREEDOM OF MOVEMENT

Paragraphs 230 to 241 of Part II of the Report deal with the right of abode issues. We note, in this connection, that the Basic Law conferred the right of abode upon permanent residents of the HKSAR. Article 24, paragraph 2 of the Basic Law sets out six categories of permanent residents of the HKSAR. No other provisions of the Basic Law qualify the wordings of these six categories of permanent residents.

However, the HKSAR Government caused legislation to be enacted in July 1997 that sought to introduce qualifications in the six categories of permanent residents and also restrictions in the verification of the permanent resident status of claimants under category (3) of Article 24(2) of the Basic Law. In sum such qualifications and restrictions include --

(a) In respect of claimants of permanent resident status under category (1), if the claimant is born in Hong Kong on or before 1 July 1987, the qualification that his or her father or mother must be settled or had the right of abode at the time of his or her birth or at any later time.

(b) In respect of claimants of permanent resident status under category (3), the qualification that the claimant's father or mother must be a Chinese citizen falling within category (1) or (2) at the time of his or her birth; and the requirement that a claimant can only establish his or her status by holding a valid certificate of entitlement, a valid HKSAR passport, or a valid permanent identity card issued to him or her. A claimant's right of abode can only be exercised upon the establishment of his status as such a permanent resident in the above manner and accordingly, where his status as such a permanent resident is not so established, he is to be regarded as not enjoying the right of abode in Hong Kong. Further, in respect of those claimants who reside in Mainland China at the time of the application, they must submit their applications through the Mainland authorities and they are taken to be residing in Mainland China even though their person may be in Hong Kong and are therefore prevented from submitting their applications in Hong Kong. In effect, unlike claimants who are residing elsewhere (including Taiwan and Macau), those claimants who reside in Mainland China are required to obtain approval from the Mainland authorities to

leave the Mainland, through the issuance of an One-way Exit Permit (that is still subject to a daily quota of 150 applicable to all categories of applicants, including those who make no claim of permanent resident status), before they can exercise their right of abode in Hong Kong.

(c) In respect of claimants of permanent resident status under category (4), the qualification that the requisite continuous period of seven years of ordinary residence is to be reckoned to be a continuous period of seven years immediately before the date when the claimant applies to the Director of Immigration for the status of a permanent resident of the HKSAR; and the requirement that he is settled in Hong Kong at the time he made a declaration that he has taken Hong Kong as his place of permanent residence.

(d) In respect of claimants of permanent resident status under category (5), the qualification that at the time of the claimant's birth or at any later time before he or she attains 21 years of age, one of his or her parents has the right of abode in Hong Kong.

We consider that these additional qualifications, said to be "clarifications" of Article 24 of the Basic Law in paragraph 231 of Part II of the Report, are unconstitutional. The legislature of the HKSAR has no authority to enact laws which purport to supplement or narrow down the description of the categories of permanent residents of the HKSAR. Such supplementation or addition of further specification can only achieved by way of amendment of the Article 24 of the Basic Law.

The HKSAR Government claims in paragraph 240 of Part II of the Report that the Certificate of Entitlement Scheme does not deprive individual of their rights. We note, however, that the Scheme, as practised, is intended to restrict the exercise of the right of abode in a discriminatory way, namely by regulating to a trickle the rate of entry of those who have a right to be in Hong Kong just because they were born in the Mainland. If that is what Article 22(4) of the Basic Law provides, that Article is discriminatory.

We consider Certificate of Entitlement Scheme as applied to claimants residing in Mainland China operates under an erroneous rationale. The wrong lies in the consideration by the Central People's Government that all claimants for permanent resident status should be treated as applicants for settlement in the HKSAR. Although an incident of the exercise of the right of abode in the HKSAR is living on a permanent basis in Hong Kong, that is not the essence of the

exercise, which is simply the exercise of the right to enter Hong Kong. Many claimants under category (3) are adults who have their own family in Mainland China. They do not wish to uproot their own family in Mainland China to come to settle in Hong Kong. Rather they wish to exercise their right of abode to come to Hong Kong at any time to meet with and to take care of their parents for any period of time. Others simply want to have their status verified.

We note that many of those caught under the Certificate of Entitlement Scheme have suffered much injustice under changing policies in the Mainland on migration. Some have waited for many years and still failed to obtain an One-way Exit Permit from the Mainland authorities. Some are told by the Mainland authorities to be not suitable for migration because of his or her relatively old age as compared to his or her younger siblings. Some are left behind in the Mainland without parental care when their mothers were allowed to go to Hong Kong with only one of her several children.

Recently, the HKSAR Government announced that it will implement a policy to encourage and facilitate those residents of Mainland China who possess outstanding qualifications, expertise and special experience to come to Hong Kong outside the quota system. Further such talents should be allowed to bring along their immediate family members.

Reading these two acts together, we discern the shape of a population policy of the HKSAR Government. Such a population policy may be driven by prejudice against the children of HKSAR permanent residents, who are perceived to be from the low-income, low-education, and little or non-skilled strata of the community and favouritism towards Mainland talents and their families, who may be in a position to contribute to the development of the economy. We note that such a policy ignores the Article 23 of the ICCPR completely or has regard to Article 23 in respect to one class of people and not another class of people. We also note that the HKSAR Government displays scant and discriminatory regard towards the protection of the family as the natural and fundamental group unit of society when it comes to the effecting of reunion of families split between Hong Kong and the Mainland in paragraph 241 of Part II of the Report. Indeed following the release of the HKSAR Government's preliminary estimates of eligible persons under the right of abode judgments, the HKSAR Government never presented or gave an opportunity for the public to discuss absorption or orderly absorption based on merit as an option. We are going to urge the Human Rights Committee to question both the Central People's Government and the HKSAR Government closely as to the rationale of the population policy of the HKSAR Government.

We also note that prejudice within the community against persons from the Mainland who recently settle in Hong Kong may have been exasperated by propaganda of the HKSAR Government, who encourage the public to think of the "new migrants" as people who are poor; who are likely to create a burden on the employment market; who are likely to depend on social welfare; who are likely to commit criminal offences; and who are ignorant and uneducated.

The HKSAR Government claims in paragraph 247(a) of Part II of the Report that "persons who enjoy the right of abode in Hong Kong cannot be deported or removed from Hong Kong". That is not true in the case of persons from the Mainland who claim the right of abode. They are deported on the basis of being "deemed" or "treated as" not having the right of abode without any need for the Director of Immigration to verify their actual status. We note that with advances in technology and good record-keeping by the Mainland authorities in present times, there is no practical difficulty in verifying the actual status of the claimants within a short period of time. Rather, the HKSAR Government made use of procedures to make the exercise of right of abode by the claimants artificially difficult.

Paragraphs 255 and 256 of Part II of the Report describe the functions of the Immigration Tribunal. We find it highly unsatisfactory that a person's legal rights in the context of immigration are to be determined by an administrative and not a judicial body. The decisions of the administrative body are only subject to judicial review on narrow grounds.

FREEDOM OF EXPRESSION, RIGHT OF PEACEFUL ASSEMBLY AND FREEDOM OF ASSOCIATION

Paragraphs 364 to 367 of Part II of the Report refer to the criminalisation of acts of desecration of the national flag, the national emblem, the regional flag and the regional emblem. A person convicted of such an offence is liable a fine of $50,000 and to imprisonment for three years. The first prosecution under the National Flag and National Emblem Ordinance (116 of 1997) is now before the CFA on appeal by the prosecution, the Court of Appeal having quashed the convictions of the defendants on the ground that the offences in question were not necessary for the protection of public order (ordre public). We are going to urge the Human Rights Committee to express as a matter of concern that laws that criminalise acts of desecration of national flag (which are expressive acts per se) for the purpose of protection of the national flag as a symbol of the state should not be applied against political dissent using the national flag as a medium.

We are going to urge the Human Rights Committee to remind the HKSAR Government that Radio Television Hong Kong, the public broadcaster, should not be degraded into a "government mouthpiece" but should remain a broadcaster where all views and opinions can be voiced.

Paragraphs 376 to 381 of Part II of the Report deal with the amendments to the Public Order Ordinance (Cap 245) at the time of the establishment of the HKSAR, particularly the replacement of the previous notification system for public processions with a system that requires the positive approval (a "notice of no objection") from the police for any proposed public procession to go ahead; and the introduction of the ground of "national security" for banning public meetings or public processions, a ground which we consider as failing to satisfy the standard of "in conformity with the law" under Art 21. We note that the Public Order Ordinance was amended in 1995 to conform with the provisions of ICCPR and seriously doubt the consistency of these amendments. We are going to urge the Human Rights Committee to remind the HKSAR Government that international human rights law imposes on the State a duty to lay down clear and precise restrictions; that merely reproducing the general provisions in the ICCPR is not sufficient to satisfy the requirement of "provided by law" in the ICCPR. The concept of "national security", properly understood, is inapplicable to Hong Kong generally, and in the context of public gathering and freedom of association in particular. The public have justifiable worries about the indiscriminate reference to "national security" in Mainland China. This fact must be given full weight in any attempt to introduce "national security" as a ground for restricting the right of public assembly and demonstrations and the freedom of association of persons. We are also going to urge the Committee to remind the HKSAR Government that "national security" as a ground for restricting fundamental rights is too vague and too imprecise and should be deleted from the grounds of objection referred to in paragraph 379.

Although the police did not object to any one of the numerous demonstrations and public processions held in Hong Kong after 1 July 1997, they impose routinely restrictions to the manner in which the demonstration or public procession were held. Police tactics were most stringent when demonstrations or public processions were held at places close to locations where visiting leaders or former leaders of the Central People's Government were paying a visit or staying. Such tactics involved the designation of "demonstration areas" (a tactic borrowed from Mainland China) tens of metres away from the location; the imposition of restrictions to prevent demonstrators from leaving the "demonstration area"; the seizure of loud hailers belonging to the demonstrators on the ostensible ground that somebody

complained about the noise they made; and the deployment of squads of police officers in a number that far exceeded the number of demonstrators or participants in the public procession, presumably for the purpose of intimidation. We consider that the use of such tactics by the police is not in conformity with items (a) and (b) of paragraph 383 of Part II of the Report. Paranoia was in much display when press reports revealed that plainclothes policemen were conducting surveillance on and following members of the April Fifth Group, a group of people who demonstrated frequently against alleged wrongdoings and shortcomings of the Central People's Government. We are going to urge the Human Rights Committee to remind the HKSAR Government that police tactics and the conditions imposed in respect of demonstrations and public processions should be proportionate to the objectives to be pursued and also to the actual circumstances of the demonstration or public procession, and which cause minimal impairments to the enjoyment of fundamental rights. The presence of a leader of the Central People's Government nearby is no cause for extraordinary action.

Paragraphs 386 to 388 of Part II of the Report deal with the amendments to the Societies Ordinance (Cap 151) at the time of the establishment of the HKSAR, particularly the replacement of the previous notification system of societies with a registration system; the prohibition of "political bodies" from establishing ties with, or receiving funds from "foreign political organizations"; and the introduction of the ground of "national security" for banning societies, a ground which we consider as failing to satisfy the standard of "prescribed by law" under Art 22 of ICCPR. We note that the Societies Ordinance was amended in 1992 to conform with the provisions of ICCPR and seriously doubt the consistency of these amendments. We are going to make submissions similar to those made in relation to the 1997 amendments to the Public Order Ordinance before the Human Rights Committee.

POLITICAL RIGHTS

Paragraphs 450 to 480 of Part II of the Report deal with the political rights under Article 25 of the ICCPR. We are going to urge the Human Rights Committee to express as a matter of serious concern that the Basic Law provides only for an opportunity for the HKSAR to consider in 2007 whether the method for the selection of the Chief Executive, the method for the formation of the Legislative Council, and the procedure of the Legislative Council for voting on bills and motions should be amended and that there is no guarantee that universal suffrage will be adopted at such time as the method for the selection of the Chief Executive and/or the method for the formation of the Legislative Council.

We are also going to urge the Human Rights Committee to note, in relation to paragraphs 458 to 461 of Part II of the Report, that the electoral system for the Legislative Council of the HKSAR still maintains the system of functional constituencies. Only in 2007 may the HKSAR be given the opportunity to abolish the system of functional constituencies. The composition of the election committee is also a cause of serious concern since the membership of the election committee replicates the pattern of functional constituencies. Both functional constituencies and the election committee return members of the Legislative Council who represent business or conservative interests and thereby dilute the voting power of the ordinary Hong Kong permanent resident. Further, the Committee will note that the Committee on the Elimination of Discrimination Against Women expressed concern in February 1999 that the electoral system of the HKSAR contained structural obstacles to women's equal political participation, which was indirect discrimination against women, especially with respect to the functional constituencies. We are going to urge the Committee to maintain its previous concluding observations on this topic.

Paragraphs 14, 15, 18 and 19 of Part I and paragraphs 472 and 473 of Part II of the Report are now out of date. The HKSAR Government has now introduced draft legislation to abolish the municipal councils and repatriate the functions of the municipal councils back to the policy bureaux of the Government Secretariat. What has been decided by the elected representatives of the public are to be decided by unelected civil servants. We observe that: Power is being centralised; Democracy is being rolled back. Furthermore, the HKSAR Government has caused to be enacted legislation to establish, in place of District Boards, "District Councils" which will be composed, in part, of appointed members. The appointed members will have equal voting power with members returned by geographic constituency elections. We note that the District Boards (except those in the New Territories which had a small proportion of ex-officio rural committee members) were fully elected by elections in geographic constituencies in 1995. We consider the re-introduction of appointed seats to be for party political purposes and an affront to ordinary voters. We are going to urge the Human Rights Committee to express as a serious concern this act of the HKSAR Government to diminish the significance of the free expression of the will of voters in periodic elections.

The Report fails to mention the discriminatory practices, on the basis of descent and gender, in village representatives elections. The HKSAR Government do not regulate village representative elections apart from approving the village representatives so elected. Although the HKSAR Government has specified a model election rules, such rules were not made

mandatory or held as a condition of approval of village representatives. It should be noted that courts of the HKSAR repeatedly held that the "right" to elect village representatives was not a traditional right of "indigenous villagers" susceptible to protection under Article 40 of the Basic Law. We consider further that there is no ground to qualify such a "right" as a minority right under Article 27 of the ICCPR. We are going to urge the Human Rights Committee to express its concern over the discriminatory practices of village representative elections.

We are going to urge the Human Rights Committee to recommend to both the Central People's Government and the HKSAR Government that the reservation maintained in respect of the composition of the Executive Council and the Legislative Council should be withdrawn.

EQUALITY BEFORE THE LAW

Paragraphs 506 to 512 of Part II of the Report were drafted before the conclusion of the trial of the Hong Kong Standard case. After the trial, the Secretary for Justice declared in a statement to the Legislative Council that the evidence against Ms Sally Aw (the owner of Hong Kong Standard) in the fraud case was not as strong as against her three subordinates (who were prosecuted). Furthermore, in departure from the prosecution guidelines referred to in paragraphs 508 to 511 of Part II of the Report, she also took into consideration matters of "public interest" including the alleged possibility that the newspapers owned by Ms Aw might collapse if she were to be prosecuted. Commentators have expressed worries that the decision not to prosecute Ms Aw was an indication of favouritism of those with close ties to the Central People's Government or the Chief Executive, or those with substantial business interest in Hong Kong. We are going to urge the Human Rights Committee express as a matter of serious concern that prosecution decisions should adhere to established guidelines and must be seen to achieve the goal of equality of all before the law.

We are going to urge the Human Rights Committee to recommend to the HKSAR Government that in addition to public education, it should enact legislation to outlaw discrimination on the grounds of race, age and sexual orientation. The publication of guidelines is not an effective means to combat age discrimination against women in the employment field. The demands of victims of discrimination for justice must not be ignored.

REPORTING AND OTHER TREATY OBLIGATIONS

We expect the Human Rights Committee to enter into a dialogue with both the Central People's Government and the HKSAR Government on the periodicity and the form and manner in which subsequent reports are to be studied and considered by the Committee. We are going to urge the Committee to prescribe a fixed period of reporting. In view of the matters set out above and the emerging possibilities of the HKSAR Government seeking an interpretation from the NPCSC over or without reference to the courts of the HKSAR (such as the flag desecration case and other upcoming cases on the right of abode), we are going urge the Committee to consider fixing the periodicity of the reporting obligation to a relatively short period of time, such as 12 to 18 months. Alternatively, we urge the Committee to ask both the Central People's Government and the HKSAR Government to submit a supplementary report on particular issues concerning the rule of law, independence of the judiciary and the protection of human rights in Hong Kong after a period of 6 to 12 months.

We are going to urge the Human Rights Committee to enter into a dialogue with both the Central People's Government and the HKSAR Government regarding the observation and implementation of Articles 29, 41 and 50 of the ICCPR, and the First and Second Optional Protocol to the ICCPR in the case of the HKSAR.

Finally, we are going to urge the Human Rights Committee to recommend to both the Central People's Government and the HKSAR Government that all the reservations currently applied to the HKSAR should be withdrawn.

The paragraphs above constitute our submission before your panel. Should your panel wish to have a copy of our commentary to the Human Rights Committee for reference, please contact us at the correspondence address above.

Best Regards,

Gladys Li, SC
Chairman