

Statement of Hong Kong Bar Association

on Remarks made by Chinese Vice Premier Han Zheng on 6 November 2019

In a meeting with the Chief Executive on 6 November 2019, Mr Han Zheng, the Vice Premier, is reported to have said that it is “the common responsibility of the city’s executive, legislative and judicial bodies” to “stop violence and restore order”.

The HKBA agrees that it is the duty of the judiciary in Hong Kong to uphold the Rule of Law, including public order. However, it must be allowed to do so independently, free from any interference, as stated under Article 85 of the Basic Law. Hong Kong is granted a high degree of autonomy and is vested with independent judicial power, including that of final adjudication pursuant to Article 19 of the Basic Law.

Although the desire to see the present troubles ended is obviously understandable, any statement made by the Central People’s Government or its officials, which could be taken as an official exhortation to judges to achieve a particular objective may be seen as an encroachment on the independence of the judiciary. This can injure the principle of high degree of autonomy for the HKSAR as enshrined in the Basic Law and undermine the concept and practice of one-country, two-systems.

As observed by the HKBA in a previous statement dated 11 June 2014¹ commenting on the White Paper on the Practice of “One Country, Two Systems” in the HKSAR published by the State Council in 2014, a description of judges and judicial officers as “administrators” implies that the Courts in Hong Kong are part of the machinery of the Government that may be the subject of administrative directions from the Central People’s Government. Any such impression must be avoided.

The independence of the judges of the HKSAR is the cornerstone of the Rule of Law. It is what makes the HKSAR stand out as a leading international financial centre that is underpinned by strong legal institutions.

Hong Kong Bar Association

Dated: 9 November 2019

¹ https://www.hkba.org/sites/default/files/White_Paper_Response_eng.pdf