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21 May 2002

Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2001
Legislative Council
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Sir/ Madam,

Part V (Marital Rape) of Statute Law (Miscellaneous Provisions) Bill 2001

I refer to the Administration's letter dated 21 May 2002 on the captioned to the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2001.

The Administration noted in p. 5 of its letter that, in connection with my letter dated 23 April 2002 to the Bills Committee, "[i]t welcomes his support relating to the new proposed section 118(3A)". I, however, would like to put it on record that I, in fact, did not - as evinced in my letter of 23 April 2002 - and still do not support adding the newly proposed s. 118(3A) while deleting clauses 11 to 17 of the bill (and thus leaving ss. 119-121, 123-125, amongst others, intact).

It came to my attention, through the Administration's letter dated 21 May 2002, that the Bills Committee at its meeting on 18 April 2002 had considered the option of amending s.117 of the Crimes Ordinance by adding:

(1B) Without prejudice to the operation of any of the other provisions of this part, for the purposes of sections 118, 119, 120 and 121, "unlawful sexual intercourse" includes sexual intercourse between a husband and his wife.

I, although still being convinced that the *issues* I raised in my letter dated 23 April 2002 should be addressed in the present exercise, believe this option of amending s.117(1B) - which expressly abrogates the marital exemption for ss.118, 119, 120 and 121 - is to be preferred to merely adding the newly proposed s.118(3A), which only makes it clear that marital exemption for rape (s. 118) is abolished.

Please note again these comments are made in my personal capacity.

Yours faithfully,

Sin Wai Man

cc. Mr Michael Scott, DoJ (21809928)
Ms Bernice Wong, LegCo Secretariat (28775029)