

The letterhead of The Law Society of Hong Kong

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Criminal
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BY FAX (21809928) AND BY POST

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Department of Justice
Legal Policy Division
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Dear Miss Lau,

Evidence (Miscellaneous Provisions) Bill - Examination of overseas witnesses via live TV link

Further to my letter to you dated 13 March 2002, I am pleased to advise that the Society's Criminal Law & Procedure Committee has considered the Consultation Paper on the above subject.

Members can appreciate that the proposed legislation, which would enable overseas witnesses to testify via TV link, has certain advantages. However, there are equally good reasons behind the present rule requiring witnesses to be physically present in court proceedings. In live proceedings, Judges and Juries are in a better position to observe the demeanour and assess the creditability of witnesses. The solemnity of the court proceedings will also assist in ensuring that a witness would take his oath seriously. There are also various concerns with the present proposals, e.g. how to ensure that overseas witnesses would take an oath seriously when in practice, it would be difficult to secure prosecution against those who have committed perjury abroad; and what are the cost implications of the proposed legislation. The Committee notes that the taking of evidence via live TV link is permitted in other overseas jurisdictions such as the UK, Canada, and various states in Australia. Members would wish to be provided with more information about the experience in these overseas jurisdictions in order that they can be in a better position to consider the present proposals.

Yours sincerely,

Christine W.S. Chu
Assistant Director of Practitioners Affairs

c.c. Mrs. Percy Ma, Clerk to AJLS Panel

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