

DRAFT

**"Subject to the actual answer
given at the Council Meeting"****LEGCO QUESTION NO. 1**

(Oral Reply)

Asked by: Dr Hon YEUNG SumDate of meeting: 22 June 2005Replied by: Secretary for Security**Question**

A veteran journalist has been detained in the Mainland by the Mainland authorities and forced to take residence under surveillance, resulting in loss of freedom. This has aroused much concern among Hong Kong people. In this connection, will the Government inform this Council:

- (a) whether it has relayed to the Central People's Government ("CPG") the concern of Hong Kong people and the signature campaign in support of the journalist; if so, of the CPG's response;
- (b) whether it has assessed the impact of the incident on the international image of Hong Kong, including the reaction of and comments from the international community in respect of the efforts of the Hong Kong Special Administrative Region ("HKSAR") Government in safeguarding Hong Kong people's basic rights, upholding the freedom of the press, and protecting official and unofficial information exchanges and contacts between the Mainland and Hong Kong against allegations of breaching Mainland laws and regulations; and
- (c) whether, under the principle of "One country, Two systems", the Hong Kong authorities can enquire from the Mainland authorities about the relevant circumstance of the detention of Hong Kong people in the Mainland, including the procedures through which Mainland authorities handle the case, such as whether unlawful handling has been involved and whether the families of the Hong Kong people

DRAFT

involved and the HKSAR Government have been notified, arrangements for residence under surveillance, and the health conditions and lawful rights of the Hong Kong people involved; if they can, whether the Hong Kong authorities have drawn up guidelines in this respect to facilitate them, upon receiving requests for assistance from Hong Kong people detained in the Mainland, to ask the Mainland authorities for the relevant information?

Reply

Madam President,

- (a) The case involving a veteran journalist subject to "residence under surveillance" in the Mainland has aroused much concern from the public and the mass media. In order to protect the privacy of the individual concerned, the HKSAR Government will not disclose the details of the case. The HKSAR Government is most concerned about the feelings of and request for assistance by the family of the journalist, and has been liaising with the family and has conveyed to the Central Government the requests and appeals of the family as well as the concerns expressed by various sectors in Hong Kong, including the Legislative Council Panel on Security, over this case. The Central Government has made it clear that it would handle the case strictly in accordance with the law and that the constitutional rights of the individual concerned would be fully respected. The HKSAR Government will convey any latest development on the case to the family concerned.

DRAFT

Q1

(b) We do not believe that an individual case of a Hong Kong resident being detained in the Mainland will have any substantive impact on the international image of or press freedom in Hong Kong. Under the principle of "One Country, Two Systems", Hong Kong residents including journalists should abide by Mainland laws when they are in the Mainland. Persons suspected of committing criminal offences in the Mainland are dealt with by the Mainland law enforcement agencies in accordance with the relevant laws in the Mainland. The HKSAR Government does not interfere with the law enforcement and the judicial process in the Mainland, just as the Mainland authorities do not interfere with cases that fall within the jurisdiction of the HKSAR Government. Nevertheless, we are very concerned about the upholding of the legal rights of Hong Kong residents detained in the Mainland. Upon the requests of the detainees or their family, we will convey their appeals, including any suspected breach of rules and procedures, to the relevant Mainland authorities in accordance with the established mechanism.

(c) Under the notification mechanism, the Notification Unit in the Mainland (i.e. the Ministry of Public Security) should notify the Hong Kong Notification Unit (i.e. the Hong Kong Police) of the imposition of criminal compulsory measures on Hong Kong residents by the public security authorities, the customs authorities, the People's Procuratorates

DRAFT

and the Ministry of State Security. Information covered by the notification mechanism include the suspected offence of the detainees, the date of detention, the type of compulsory measure taken, the place where the compulsory measure is taken, the enforcement agency and the name and telephone number of the officer handling the case. The HKSAR Government will inform the family concerned as soon as possible after receiving a notification from the Mainland authorities, so that the family can consider without delay whether or not to engage a lawyer to represent the detainee or to seek other assistance from the HKSAR Government.

As mentioned above, provided that the principle of "One Country, Two Systems" is not infringed, we will contact the Mainland authorities upon request of the family concerned to gather further information about the detention and to reflect to the relevant Mainland authorities any queries about suspected unlawful detention. However, it must be stressed that under the "One Country, Two Systems" principle, investigation of such cases are conducted by the Mainland authorities and they are not obliged to disclose details of the cases to the HKSAR Government. We, therefore, do not comment on the law enforcement and judicial processes in the Mainland. Any suspected breach of rules and procedures should be handled by the Mainland authorities and the HKSAR Government should not interfere. Similarly, the HKSAR Government will

21

DRAFT

investigate and handle any complaints about suspected breach of rules and procedures by our government departments.

The Immigration Department has published a leaflet entitled "Guide to Assistance Services to Hong Kong Residents in the Mainland" which sets out the assistance available to Hong Kong residents in distress in the Mainland. The leaflet is available in offices of the Immigration Department and can also be downloaded from the department's homepage.

