

Letterhead of Margaret Ng Member of Legislative Council

By Post & By Fax: 2869 0720

17 May 2000

Mr. Stephen Wong
Deputy Solicitor General
General Advisory Unit
Department of Justice
4th Floor, High Block
Queensway Government Offices
Hong Kong

Dear Stephen,

Marital Rape

I refer to the discussion on the above item in yesterday's Panel on Administration of Justice and Legal Services. Having read the case you brought the Panel's attention to, namely HKSAR v Chan Wing Hung [1997] 3 HKC 472, I am even more convinced that the law should be amended to make it clear beyond doubt that marital rape is a crime. Although the Court referred to R v R [1991] 3 WLR 767 and followed Lord Keith in holding that the word "unlawful" was "suplusage" in the context of s.119 of Cap. 200, the Court did so to come to the conclusion that the sexual intercourse in question was "unlawful sexual intercourse" because it was outside the bounds of matrimony.

Under the Basic Law, R v R is only of reference and not binding force in the Hong Kong courts. Chan Wing Hung is not on rape. Neither makes the law clear to the layman or indeed the average police constable.

I still maintain an amendment is necessary to make the law clear in this vital area in Hong Kong.

Yours sincerely,

Margaret Ng

c.c. Mrs. Percy Ma (Fax: 2509 9055)
Clerk to the AJLS Panel for circulation to members of the Panel