



HONG KONG BAR ASSOCIATION

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14th February 2011

Clerk to Bills Committee on the
Adaptation of Laws (Military References) Bill 2010
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road, Hong Kong.

Dear Sirs,

Re: Adaptation of Laws (Military References) Bill 2010

We refer to the submission of the Hong Kong Bar Association with respect to the captioned Bill and the Response of the Security Bureau dated February 2011 (LC Paper No CB(2)944/10-11(02)). We only have had access to the latter document after the Chinese New Year holidays.

We note that the Bills Committee requested the Security Bureau to provide a written response to the queries and comments of the Bar Association in paragraph 17. The Security Bureau has declined to provide the requested written response. Instead they have indicated their preference to have “more detailed discussions during the clause-by-clause examination of the Adaptation Bill”, “[should] the Bills Committee require more information relating to individual provisions”.

With respect, we consider the Security Bureau’s approach both unsatisfactory and unhelpful. The captioned Bill deserves close scrutiny, given that the collection of statutory privileges and immunities have enabled the Hong Kong Garrison of the People’s Liberation Army to practise the Mainland system within the Hong Kong Special Administrative Region. Otherwise it would have had its own separate system with respect to a substantial part of the Region’s land and natural resources, which would then have been the responsibility of the Government of the HKSAR to manage, use and develop, subject to the Government’s accountability to the Legislative Council of the HKSAR.

We urge the Security Bureau and the Department of Justice to produce a written response to each and every query or comment raised in paragraph 17 of our submission, as well as to each and every query or comment in respect of the submission of the Hong Kong Human Rights Monitor, which we have read and found to be relevant and useful. The Security Bureau and the Department of Justice should justify to the Bills Committee on an informed basis whether each clause of the captioned Bill is consistent with the Basic Law of the HKSAR and that it does not go any further in its legal effect.

香港大律師公會

香港金鐘道三十八號高等法院低層二樓

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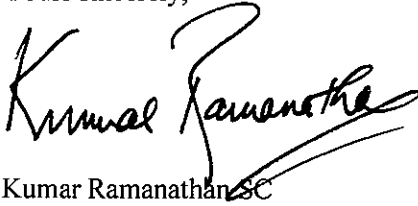
艾家敦

劉恩沛

The claim that certain interpretive principles have been in place since 1 July 1997 does not provide a reasonable or acceptable substitute explanation for the required justification. The portrayal of an “adaptation of laws exercise” as if it is an abstract word-play, divorced from the actual and the practical, is again, with respect, unsatisfactory.

In addition, reference is made to paragraphs 8 and 9 of the Bar’s submission. To allow the Bills Committee to proceed with the clause-by-clause examination of the captioned Bill on an informed basis, it is suggested that the Security Bureau be asked to supply to the Bills Committee lists of the “work conveniences/facilities” and “immunities/exemptions” the Government of the HKSAR has provided to the Hong Kong Garrison during the period 2000 - 2010.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Kumar Ramanathan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kumar Ramanathan SC
Chairman