

Judiciary clarifies a misquoted media report

The Judiciary would like to clarify a misquote in a media report dated November 26 published by the Stand News, the Judiciary said today (November 28).

The quote from the Stand News (said to be taken from a report by the Financial Times) of a remark allegedly made by the Chief Justice of the Court of Final Appeal, Mr Geoffrey Ma Tao-li, on the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (National Security Law) is untrue and wrong. The Chief Justice has not spoken or made any comments on the National Security Law, nor has he said anything about its impact on the relevant provisions of the Basic Law, or its impact on the appointment of judges.

As regards another quote from the Chief Justice on separation of powers in the original Financial Times report, it should be pointed out that the Chief Justice was referring to judicial independence under the Basic Law when he made the relevant remark in his speech at the Ceremonial Opening of the Legal Year 2014. No reference was made in that speech to the position on the Mainland.

As set out in the statement of the Chief Justice dated September 23, there are clear provisions on judicial independence under the Basic Law:

"The Basic Law sets out provisions that deal with the political structure of the HKSAR. Chapter IV contains provisions dealing with the Chief Executive (Section 1), the Executive Authorities (Section 2), the Legislature (Section 3) and the Judiciary (Section 4). We are particularly concerned in this paper with matters relating to the Judiciary.

In Article 2 (in Chapter I enumerating General Principles), it is stated that the NPC authorises the HKSAR to 'enjoy..... independent judicial power'. Article 19 (in Chapter II setting out the Relationship between the Central Authorities and the HKSAR)

states again that the HKSAR is to be 'vested with independent judicial power'. Then Article 85 (in Chapter IV in Section 4 in relation to the Judiciary) states:

"The courts of the Hong Kong Special Administrative Region shall exercise judicial power independently, free from any interference. Members of the judiciary shall be immune from legal action in the performance of their judicial functions."

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