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THE PERMANENT MISSION OF THE PEOPLE'S REPUBLIC OF CHINA  
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The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and Other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights and with reference to the latter's communication [AL CHN 20/2025], has the honor to transmit herewith the reply of the Chinese Government.

The Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and Other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 4 November 2025



Office of the High Commissioner for Human Rights  
GENEVA

Receipt is hereby acknowledged of joint communication No. AL CHN 20/2025 from special procedure mandate holders of the United Nations Human Rights Council, to which the Government of China submits the following reply:

1. The Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression jointly submitted a communication expressing so-called concern, under the guise of human rights issues, about a decision made by an independently operating professional disciplinary body in the Hong Kong Special Administrative Region (Hong Kong SAR) of the People's Republic of China. The allegations therein are not only unfounded and biased, but also deliberately misleading and even defamatory against the judicial and legal system of the Hong Kong SAR, contrary to the spirit of the rule of law.

2. Although the Special Rapporteurs, in their joint communication, claim not to have prejudged the accuracy of the allegations, they nonetheless issued a press release on 3 October 2025, before receiving a response from the Hong Kong SAR, in which they publicly characterized the ruling as "retaliation" against lawyers in Hong Kong, and even used the word "appalling". The Special Rapporteurs have evidently prejudged the case before examining the facts. At the same time, while claiming to safeguard fairness, justice and freedom of expression, the Special Rapporteurs have long ignored the serious threats made by certain countries, groups and individuals against Hong Kong judges and prosecutors. Even more absurdly, they have made baseless allegations with regard to the necessary measures taken by the Government and legal professional bodies of the Hong Kong SAR to safeguard the independence of judges and prosecutors. These circumstances clearly demonstrate to the world how the Special Rapporteurs apply double standards to such issues; this inevitably raises questions about their independence, impartiality and objectivity.

3. Accordingly, the Hong Kong SAR expresses its firm rejection of and displeasure at the unfounded smears and baseless allegations in the joint communication and the above-mentioned press release, and is obliged to strongly deny them, point out the facts and set the record straight. The present response provides accurate information regarding the concerns raised in the joint communication about Yam Kin Fung (Kevin Yam), who was designated an absconder under the Safeguarding National Security Ordinance. As reiterated in the information below, the Government of the Hong Kong SAR has consistently respected important principles such as the independence of the judiciary and the protection of human rights. It trusts that the Special Rapporteurs will objectively, conscientiously and correctly understand the full context of the matter and refrain from making biased or erroneous comments influenced by prejudice. To avoid any doubt, the Hong Kong SAR emphasizes that even if specific concerns raised in the joint communication are not addressed below, the People's Republic of China and the Hong Kong SAR, as an integral part thereof, should not be understood to have acknowledged the negative and inaccurate views expressed in the joint communication.

**The need to respect the independence of the Hong Kong legal profession and its self-regulation mechanism**

4. It should first be pointed out that in Hong Kong, as in a number of common-law jurisdictions such as those of the United Kingdom and Australia, the legal profession is self-regulating. The Government of the Hong Kong SAR has consistently respected the self-regulation mechanism of the Law Society of Hong Kong, through which the legal profession has discretionary power to set standards regarding qualifications and models of practice, formulate codes of conduct and handle complaints, including impartial adjudication by the Solicitors Disciplinary Tribunal. The self-regulation system of the legal profession in the Hong Kong SAR is governed by the Legal Practitioners Ordinance (Laws of Hong Kong, Cap. 159) and is explicitly protected under the Basic Law. Article 142 of the Basic Law stipulates that “the Government of the Hong Kong Special Administrative Region shall continue to recognize the professions and the professional organizations recognized prior to the establishment of the Region, and these organizations may, on their own, assess and confer professional qualifications”. This is also in line with principle 26 of the Basic Principles on the Role of Lawyers, which provides that codes of professional conduct for lawyers should be established by the legal profession through its appropriate organs, or by legislation, in accordance with national law and recognized international standards.

5. Lawyers in the Hong Kong SAR must abide by the guidelines on professional integrity formulated by their professional body. The Legal Practitioners Ordinance and the regulations relating thereto designate the Law Society of Hong Kong as the regulatory body for the legal profession. The Law Society is empowered by the Legal Practitioners Ordinance to refer matters relating to professional conduct to the Solicitors Disciplinary Tribunal for follow-up action. The Tribunal is a statutory tribunal established under section 9 of the Legal Practitioners Ordinance. It operates independently from the Law Society, as the prosecuting authority, and conducts inquiries and investigations and issues decisions with regard to disciplinary matters.

6. Specifically, under section 9A (1) of the Legal Practitioners Ordinance, where the Law Society considers that the conduct of a solicitor or other person should be inquired into or investigated, it may submit the matter to the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel for follow-up. Under section 9B (1), the Tribunal Convenor of the Solicitors Disciplinary Tribunal Panel may appoint from the Panel two solicitors and one lay person to constitute a Solicitors Disciplinary Tribunal to inquire into and investigate the matter. The Tribunal Panel consists of not more than 120 practising solicitors of at least 10 years’ standing, not more than 10 foreign lawyers and not more than 60 lay persons, and all members are appointed by the Chief Justice of the Court of Final Appeal. The composition and structure of the Tribunal are designed to ensure that, when performing its functions in relation to disciplinary matters, it adequately reflects the views of the legal profession and the public on the conduct of lawyers, including the impact of such conduct on the profession and the public.

7. The Law Society of Hong Kong and the Solicitors Disciplinary Tribunal are in a unique position to perform their duty to uphold professional standards and discipline. As noted above, the Tribunal’s composition and structure are representative and capable of fully reflecting the legal profession’s views on the conduct of lawyers. The Tribunal

assesses, from the perspective of peers, how to strike a balance between upholding judicial procedures, preserving the reputation of the legal profession and safeguarding individual lawyers' freedom of expression, and is thus better suited than other institutions to the task of determining whether there has been professional misconduct.

8. This regulatory framework for lawyers in Hong Kong is consistent with the approach taken by major common-law jurisdictions in handling cases of professional misconduct by lawyers. Examples include the Solicitors Regulation Authority of the United Kingdom (England and Wales) and, in Australia, the independent Office of the Legal Services Commissioner or local legal professional bodies (depending on the state) responsible for overseeing professional conduct in the legal field, which refer cases of disciplinary violations by lawyers to the relevant independent statutory tribunal for hearing, adjudication and sanction. It sometimes happens that lawyers in different jurisdictions are disbarred by independent adjudicative bodies for serious breaches of professional ethics.

**The Solicitors Disciplinary Tribunal's handling of Mr. Yam's case was fair and reasonable**

9. In this case, as mentioned in the joint communication, China clearly pointed out in its replies to the Special Rapporteurs dated 6 October and 6 November 2023 that Mr. Yam, a solicitor in the Hong Kong SAR, completely ignored the professional code of conduct and the professional ethics he was bound to observe. He recklessly sought to discredit the judicial system and the rule of law in the Hong Kong SAR and made slanderous remarks about judges and prosecutors. What is more, calling on foreign Governments to impose so-called "sanctions" on Hong Kong judges and/or prosecutors who have participated in national security cases not only tarnishes the reputation of the legal profession as a whole, but may even undermine and disrupt the rule of law and the judicial system of the Hong Kong SAR, thereby eroding public trust. As the guarantor of the public interest in ensuring the proper administration of justice and upholding the rule of law, the Secretary for Justice of the Government of the Hong Kong SAR was obliged to file a formal complaint regarding Mr. Yam's misconduct with the Law Society of Hong Kong, allowing the Law Society to deal with it independently in accordance with established mechanisms and disciplinary procedures.

10. As required by principle 27 of the Basic Principles on the Role of Lawyers, Mr. Yam had the right to a fair hearing on the charges against him and the right to be assisted by a lawyer of his choice. The composition and operation of the Solicitors Disciplinary Tribunal are rigorous, and the Tribunal handled the matter of Mr. Yam's professional misconduct independently and in accordance with the law and established procedures, in line with principle 28, which requires that disciplinary proceedings against lawyers be handled by an impartial disciplinary committee established by the legal profession. The applicable disciplinary standards are consistent with those established in major common-law jurisdictions, ensuring that the Hong Kong legal profession continues to operate with integrity and in compliance with international norms. However, the joint communication did not specifically explain why concern was

being expressed about the disciplinary proceedings, and any criticism alleging that the process was unfair lacks factual support.

11. Furthermore, in accordance with rule 8 of the rules of procedure of the Solicitors Disciplinary Tribunal, the respondent (in this case Mr. Yam) must be notified of the Tribunal's hearing date and a copy of the application and of the affidavit must be served on the respondent. In fact, Mr. Yam was fully aware of the inquiry and investigation being conducted by the Tribunal. The notice of the hearing was duly served on all parties, including Mr. Yam, and the documents pertaining to the Tribunal's legal proceedings were also formally served on him. Thus, if there was indeed any unfairness in the relevant procedures, as claimed in the communication, such as the alleged failure to explicitly list or define the violations, or the alleged absence of professional misconduct, Mr. Yam was fully entitled to make representations and mount a defence in the disciplinary proceedings through the relevant mechanisms.

12. Nonetheless, Mr. Yam stated through his legal representative that he would not provide any further feedback, information or documents in connection with the disciplinary proceedings and would not contest, participate in or attend the proceedings. Despite the existence of relevant mechanisms, throughout the process Mr. Yam chose not to raise any objections to the disciplinary proceedings or the associated costs order. It is difficult to understand why, since the Special Rapporteurs were aware of Mr. Yam's voluntary choice during the disciplinary proceedings, they afterwards expressed their so-called concerns about the disciplinary proceedings, the decision and the costs order through a joint communication.

13. Furthermore, if Mr. Yam, as the respondent, was dissatisfied with the decision, he could, pursuant to section 13 (1) of the Legal Practitioners Ordinance, have filed an appeal with the Court of Appeal against any order made by the Tribunal. The Court of Appeal has full jurisdiction to review the Tribunal's findings and procedures. This is consistent with article 10 of the Hong Kong Bill of Rights, which corresponds to article 14 of the International Covenant on Civil and Political Rights. It is also fully in line with principle 28 of the Basic Principles on the Role of Lawyers, under which disciplinary proceedings against lawyers must be subject to an independent judicial review. Nevertheless, Mr. Yam did not file an appeal within the time limit. This being the case, after the expiry of the time limit for the filing of an appeal, on 22 August 2025 the Registrar of the High Court of Hong Kong published an order in the Gazette striking Mr. Yam off from the roll of solicitors. This was reasonable and fully in accordance with the relevant procedures. It is difficult to understand how the Special Rapporteurs could have any misapprehensions regarding this matter.

14. As the Law Society of Hong Kong emphasized in its statement of 1 September 2025 on Mr. Yam's case (annex 1), the Law Society is the self-regulatory body for solicitors in Hong Kong and is entrusted with the duty to uphold the highest professional standards and maintain public confidence in the legal profession. The Law Society acts independently and apolitically, faithfully carrying out its regulatory responsibilities in accordance with the law.

15. The Tribunal determined that Mr. Yam had acted improperly and imposed disciplinary sanctions in accordance with applicable disciplinary standards and adjudication procedures. During the proceedings, Mr. Yam was provided with legal representation and was given ample opportunity to respond to the allegations against him. Although Mr. Yam chose not to attend the hearing before the Tribunal, he still had the right and the opportunity to file an appeal against the Tribunal's decision with the Court of Appeal. However, once again, he chose to forgo the exercise of this right. Given that he has received professional legal training and has worked in the legal field for many years, and was assisted by legal representation during the proceedings, Mr. Yam could not have been unaware of the possible consequences of waiving the exercise of his rights. Yet the joint communication still mischaracterizes the Tribunal's fair and impartial disciplinary decision on Mr. Yam's serious professional misconduct, made in accordance with laws and regulations, as "direct retribution" and even "transnational repression" against him. This is not only an attack on the professionalism and independence of the Tribunal, but also an absurd and malicious accusation against the Hong Kong SAR, which has consistently upheld the principle of the rule of law. The Hong Kong SAR strongly objects to the baseless remarks made in the joint communication and urges the Special Rapporteurs to respect the independence of the Hong Kong legal profession and its self-regulation mechanism.

**The Tribunal's findings in Mr. Yam's case are grounded in law**

16. According to the Tribunal's ruling, Mr. Yam appeared via video link at a hearing of the United States Congress's Congressional-Executive Commission on China, as part of which he provided oral and written testimony to the Commission. In both testimonies, Mr. Yam identified himself as a Hong Kong legal professional who has practised law in the jurisdiction. In the oral testimony, he called for sanctions to be imposed by the United States Government on judges and/or prosecutors in Hong Kong for their involvement in national security cases. In the written testimony, he called for sanctions to be imposed by the United States Government on prosecutors in Hong Kong for their involvement in national security cases. When Mr. Yam engaged in the above acts, he was a solicitor and an officer of the court within the meaning of the Legal Practitioners Ordinance.

17. The factual evidence of Mr. Yam's call on the United States Government to sanction Hong Kong judges and prosecutors who have consistently upheld the rule of law is undeniable. His remarks clearly violated common law, thereby compromising his personal integrity and the reputation of the profession. The Solicitors Disciplinary Tribunal accordingly issued a reasonable and measured ruling that Mr. Yam had engaged in conduct unbecoming a solicitor. The Tribunal considered that his misconduct was grave and serious, and thus reasonably ordered that he be struck off from the roll of solicitors and pay the costs and disbursements of the Law Society, the prosecutor and the clerk to the Tribunal.

18. The joint communication and the Special Rapporteurs' press release of 3 October 2025 claim that Mr. Yam was disbarred without having breached professional ethics. This not only contradicts the facts determined by the Tribunal, but also raises the

question of why the Special Rapporteurs believe that their so-called conclusion, based on unfounded conjecture, is more credible than the professional findings made by the Tribunal on the basis of factual evidence and a rigorous hearing procedure. The joint communication provides a misleading and selective account of the process and of the reasons for Mr. Yam's disbarment. As noted above, the fact that Mr. Yam called on the United States Government to impose sanctions on Hong Kong judges and prosecutors who have consistently upheld the rule of law amply justifies the Tribunal's finding that he engaged in conduct unbecoming a solicitor, which amounts to misconduct under common law. In accordance with the applicable procedures, Mr. Yam was given the opportunity to respond to the allegations against him and to appeal against the Tribunal's decision. If the Special Rapporteurs had taken note of the statement issued by the Law Society of Hong Kong on 1 September 2025, they would have understood that the Tribunal's findings were based solely on Mr. Yam's professional conduct and not on any alleged criminal offence or political opinion.

19. The Law Society has only followed established procedures to address Mr. Yam's professional misconduct in accordance with the law. This action is in no way intended to prevent lawyers from performing their functions without intimidation, hindrance, harassment or improper interference, as alleged in the communication, nor does it constitute a violation of principles 16 and 23 of the Basic Principles on the Role of Lawyers. On the contrary, in accordance with principle 29 of the Basic Principles, the Law Society took disciplinary action against Mr. Yam in accordance with the code of professional conduct and other recognized standards and ethics of the legal profession. In fact, the complaints against Mr. Yam were by no means few; as clearly stated in the joint communication, the Law Society of Hong Kong received as many as 228 complaints regarding his conduct. This shows that the situation was serious and attracted widespread public attention.

20. According to the account in the joint communication, the Special Rapporteurs appear to believe that Mr. Yam's words and actions were merely an expression of his opinion on the independence of judges and prosecutors in the Hong Kong SAR. This is a blatant distortion of the facts and an extremely dangerous and irresponsible view that completely overlooks the serious harm and disruption that Mr. Yam's conduct could potentially inflict on the rule of law and the judicial system in the Hong Kong SAR. It must be pointed out to the Special Rapporteurs that Mr. Yam directly and deliberately attempted to improperly influence, threaten and intimidate Hong Kong judges and prosecutors who have consistently upheld the rule of law. His purpose was to obstruct the proper administration of justice. This is a serious offence that is universally regarded as such; it has an extremely severe impact on the rule of law and cannot be tolerated. The Special Rapporteurs cannot fail to understand this principle. In fact, in their press release of 3 October 2025, the Special Rapporteurs emphasized the need to guarantee that those who practise law can do so free from intimidation, obstacles or interference, but did not direct a word of criticism at Mr. Yam for engaging in such conduct. This is deeply troubling. While alleging so-called violations of his fundamental rights and freedoms, Mr. Yam seemed to completely forget that he was simultaneously calling for the United

States to impose sanctions on Hong Kong judges and prosecutors who have consistently upheld the rule of law. This was a blatant violation of their fundamental rights and freedoms and a shameless act of serious interference with the impartial administration of justice; it reflects nothing but hypocritical double standards. It seems that anyone other than the Special Rapporteurs would consider that Mr. Yam's conduct, especially in view of his status as a legal practitioner at the time, went far beyond the lawful exercise of freedom of speech to express opinions on judicial proceedings and instead constituted a direct attack on the judicial system through serious allegations that lack any credible or sufficient factual basis. It is highly regrettable that, instead of duly criticizing Mr. Yam's remarks and conduct, the Special Rapporteurs have supported his wrongdoing and sided with a fugitive who undermined the rule of law and the judicial system. This is a sad state of affairs.

### **The rule of law is based on non-interference in judicial procedures**

21. China has consistently emphasized the robustness of the judicial system in the Hong Kong SAR, which has been highly praised by the international community and is protected by the Basic Law. In accordance with the fundamental principles of the constitutional order and the rule of law in the Hong Kong SAR, the Department of Justice oversees criminal prosecution under the Basic Law and is not subject to any interference. The Department of Justice rigorously and objectively makes independent prosecution decisions in each case, based on evidence and applicable law, in accordance with the Prosecution Code. The Basic Law also provides that the courts of the Hong Kong SAR are to exercise their adjudicatory power independently and without any interference. All judges and judicial personnel must faithfully uphold their judicial oath and maintain judicial fairness without fear or favour and in a spirit of integrity, in strict accordance with legal principles. These principles must be respected to ensure that justice is administered impartially and unflinchingly.

22. The United Nations Human Rights Committee has likewise emphasized this principle in its general comment No. 32, indicating that States should take specific measures guaranteeing the independence of the judiciary and protecting judges from undue interference or intimidation. The Special Rapporteurs are undoubtedly familiar with the statement, in general comment No. 32, that "fairness of proceedings entails the absence of any direct or indirect influence, pressure or intimidation or intrusion from whatever side and for whatever motive".

23. The Basic Principles on the Independence of the Judiciary state that it is the duty of all governmental and other institutions to respect and observe the independence of the judiciary (principle 1); that the judiciary are to decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason (principle 2); and that there is not to be any inappropriate or unwarranted interference with the judicial process (principle 4).

24. The Guidelines on the Role of Prosecutors provide that States must ensure that prosecutors are able to perform their professional functions without intimidation,

hindrance, harassment, improper interference or unjustified exposure to civil, penal or other liability (guideline 4).

25. It should be stressed that all persons in the Hong Kong SAR have the right to a fair trial, and a fair trial can take place only if the court or tribunal can exercise its powers independently and without any interference. Therefore, no one is allowed to pressure, intimidate or threaten the Hong Kong courts, which are held in high regard by the international community. Such acts are wholly unacceptable. Anyone who supports the rule of law and the protection of fundamental rights cannot condone or tolerate such conduct.

26. The Hong Kong SAR has pointed out repeatedly that foreign Governments, institutions and politicians have openly threatened to impose so-called “unilateral sanctions” on Hong Kong law enforcement officers, prosecutors and judicial personnel, in a futile attempt to intimidate them, and have interfered in judicial procedures in Hong Kong, in disregard of the principles of the sovereign equality of States and non-interference laid down in the Charter of the United Nations. Threats against judges and prosecutors are even more clearly in violation of internationally recognized principles such as the Basic Principles on the Independence of the Judiciary, adopted in 1985 at the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, and the Guidelines on the Role of Prosecutors, adopted in 1990 at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders. Such conduct also blatantly violates the fundamental rights and freedoms of the targeted individuals and their families.

27. In the view of the Hong Kong SAR, these threats of sanctions are what constitute “direct retribution” and “transnational repression” against legal practitioners and pose the greatest threat to their independence. However, the Special Rapporteurs have turned a deaf ear to this matter, never issuing any statements or public condemnations, to the great disappointment of the Government of the Hong Kong SAR. The irony is that the Special Rapporteurs have repeatedly written letters alleging that some lawyers have been subjected to “threats” and “restrictions on freedom of expression” by the Hong Kong SAR Government, while at the same time not daring to speak out and take a stand on the threats made by Governments, institutions and individuals (including Mr. Yam) against Hong Kong law enforcement officers, prosecutors and judicial personnel who have consistently upheld the rule of law. The Special Rapporteurs’ application of double standards to the Hong Kong SAR is utterly disgraceful and deplorable.

28. The Special Rapporteurs’ unfounded allegation of so-called “transnational repression” must be strongly denied and the facts clarified. Since leaving Hong Kong, Mr. Yam [REDACTED], where he has continued to openly engage in actions that jeopardize national security, including calls on foreign countries to impose “sanctions” and blockades on the People’s Republic of China and the Hong Kong SAR and to take other hostile actions. He continues to recklessly collude with external forces to cover up his misdeeds. Therefore, on 24 December 2024, the Secretary for Security exercised the powers conferred under section 89 (1) and (4) of the Safeguarding National

Security Ordinance by publishing a notice in the Gazette in which several individuals [REDACTED], and for whom arrest warrants had been issued by Hong Kong courts for suspected offences of endangering national security were designated as absconders, and the relevant measures were taken. The purpose was to combat, deter and prevent absconding and to facilitate the return of the absconders to Hong Kong to face law enforcement and judicial proceedings. The measures taken by the Government of the Hong Kong SAR with regard to the absconders are similar to those taken by many countries, including the United States, the United Kingdom and Canada, to deal with fugitives.

29. It should be emphasized that endangering national security is a very serious offence, and the Government of the Hong Kong SAR has a duty to take legal action against persons suspected of committing offences endangering national security abroad. The Hong Kong law enforcement agencies always take enforcement actions on the basis of evidence, in strict accordance with the law and in response to the conduct of the persons or units concerned, irrespective of their political stance, background or occupation.

#### **Fundamental freedoms and rights are guaranteed by law**

30. As the Government of China has pointed out multiple times, the Basic Law of the Hong Kong SAR fully protects fundamental rights and freedoms at the constitutional level, including freedom of expression and the right to a fair trial. Furthermore, article 39 of the Basic Law specifies that the relevant provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and other treaties as applied to Hong Kong remain in force and are implemented through the laws of the Hong Kong SAR.

31. At the local level, the relevant provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong are implemented through the Hong Kong Bill of Rights Ordinance, which is binding on the Government. The relevant rights and freedoms under the International Covenant on Civil and Political Rights are protected under the Hong Kong Bill of Rights, as set out in article 8 of the Hong Kong Bill of Rights Ordinance. The Government of the Hong Kong SAR has consistently implemented the provisions of the Basic Law and the Covenants, while also upholding the rule of law.

32. In the Hong Kong SAR, all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. All persons, regardless of occupation, may exercise their fundamental rights and freedoms in compliance with the law. According to the 2024 Rule of Law Index published by the World Justice Project, the Hong Kong SAR continues to rank sixth in East Asia and the Pacific and twenty-third out of 142 countries and regions in the world. It maintains a high overall ranking and continues to outperform certain Western countries that often baselessly criticize the situation of human rights and the rule of law in Hong Kong. It is thus clear that the Hong Kong National Security Law, the Safeguarding National Security Ordinance and other laws safeguarding national security in the Hong Kong SAR have been effective in

maintaining long-term prosperity and stability. Under the protections afforded in the Basic Law and the Hong Kong Bill of Rights Ordinance, Hong Kong residents enjoy the fundamental right to bring proceedings before the courts and to seek judicial remedies.

### **Freedoms are not absolute**

33. Although the Basic Law protects all the fundamental rights and freedoms of Hong Kong residents and others, these freedoms, as in other parts of the world, are not absolute or completely unrestricted. Both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights allow lawful restrictions to be placed on non-absolute human rights for reasons such as national security.

34. Article 16 of the Hong Kong Bill of Rights, which implements article 19 of the International Covenant on Civil and Political Rights, provides that the exercise of the right to freedom of expression carries with it special duties and responsibilities and may therefore be subject to restrictions provided by law that are necessary for respect of the rights or reputations of others, or for the protection of national security or of public order, or of public health or morals. In addition, article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) clearly states that the right to freedom of expression may be restricted for the purpose of “maintaining the authority and impartiality of the judiciary”.

35. With regard to that stipulation, the European Court of Human Rights has referred to the special role of the judiciary in society. As the guarantor of justice in a State governed by the rule of law, including the power to resolve legal disputes and determine a person’s guilt or innocence on a criminal charge, the judiciary must enjoy public confidence in order to carry out its duties. It is therefore necessary to protect such confidence against gravely damaging attacks that are essentially unfounded, especially in view of the fact that judges who have been criticized are subject to a duty of discretion that precludes them from replying.

36. The Court has also pointed out that prosecutors have a duty to promote impartiality in the judicial process. It is in the public interest to maintain public confidence in prosecutors as well as in the judiciary. Therefore, the State must protect them from unfounded accusations.

37. The Court of Final Appeal of the Hong Kong SAR also recognizes the important role played by lawyers in the judicial process in Hong Kong. The rule of law depends on the efforts of all those involved in the justice system, and members of the legal profession must accordingly maintain high standards.

38. Similarly, in many cases the European Court of Human Rights has emphasized the special status of lawyers as intermediaries between the public and the courts. The mission of the courts is crucial for States governed by the rule of law, and lawyers play a key role in ensuring that the courts enjoy public confidence. Accordingly, their professional conduct is regulated and they must act with prudence, integrity and dignity. Moreover, professional bodies in the legal field play a key role in ensuring the protection of human rights and must therefore be able to act independently. Respect for the

professionalism of peers and the self-regulation of the legal profession are particularly crucial. Lawyers have the right to exercise freedom of expression and to comment publicly on judicial proceedings, provided that their criticism does not overstep certain boundaries. Before accusing a judge of bias or serious misconduct, lawyers should be careful to ensure that they have a reliable factual basis. In such matters, it is necessary to strike the right balance between interests such as freedom of expression, the proper administration of justice and the dignity of the legal profession.

**Safeguarding the rule of law and justice in Hong Kong is an ineluctable responsibility**

39. In relation to legal practitioners, article 35 of the Basic Law provides that Hong Kong residents have the right to confidential legal advice, access to the courts, the choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and judicial remedies. Professional lawyers play a key role in the legal system of the Hong Kong SAR and bear the primary responsibility for upholding the rule of law. In the performance of their duties, legal practitioners enjoy the same legal protections as others in respect of their fundamental rights and freedoms. This basic guarantee enables them to act professionally, without fear or favour. At the same time, members of the legal profession must perform their duties professionally and abide by the codes of conduct and guidelines on professional ethics established by the relevant professional bodies.

40. Principles 16 and 23 of the Basic Principles on the Role of Lawyers provide that lawyers must be able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference and that, like others, they are entitled to freedom of expression, belief, association and assembly. The Principles also state that lawyers should act “in accordance with recognized professional duties, standards and ethics” and should “always conduct themselves in accordance with the law and the recognized standards and ethics of the legal profession”, including by respecting and upholding the principle of the rule of law.

41. Having served as a Hong Kong solicitor, Mr. Yam knowingly violated the law by defaming the judicial system and the rule of law in Hong Kong, slandering its judges and prosecutors and encouraging and calling on foreign forces to impose so-called “sanctions” and put pressure on Hong Kong judges and prosecutors who uphold the principle of the rule of law. His actions constitute misconduct under common law. Such shameless conduct blatantly tramples on justice; if he faces legal consequences, he has only himself to blame.

42. Mr. Yam’s actions have harmed the judicial system and overall interests of the Hong Kong SAR. They constitute a serious breach of the professional code of conduct and ethical standards expected of legal practitioners, damaging the reputation of the legal profession and inevitably eroding public confidence in the judicial system and the rule of law in the Hong Kong SAR. As the guarantor of the public interest in ensuring the proper administration of justice and upholding the rule of law, the Secretary for Justice of the Government of the Hong Kong SAR is duty-bound to safeguard the rule

of law and justice in Hong Kong. About two months after Mr. Yam attended the hearing and called for foreign Governments to “sanction” Hong Kong judges and prosecutors, the Secretary for Justice filed a complaint with the Law Society of Hong Kong without undue delay.

43. As noted above, the Solicitors Disciplinary Tribunal determined that Mr. Yam had acted improperly and imposed disciplinary sanctions in accordance with applicable disciplinary standards and adjudication procedures. The Tribunal’s decision is legally sound and beyond reproach, demonstrating that the Secretary for Justice had sufficient grounds for filing the complaint.

### **Conclusion**

44. Under the “one country, two systems” principle, the Hong Kong SAR has consistently worked to maintain a legal system that enjoys a high level of trust. Over the years, the judicial system and the rule of law have garnered widespread recognition and respect from the international community. The Hong Kong SAR will remain steadfast in resolutely safeguarding the interests of national sovereignty, security and development, fully and correctly implementing the “one country, two systems” policy and vigorously upholding the judicial system and the rule of law in the Region. It will also continue to protect human rights through reasonable security measures and to promote human rights through development and cooperation. At the same time, it will not hesitate to oppose and refute, in the strongest possible terms, all unfounded and biased remarks and malicious attacks that defame and slander the judicial system, the rule of law and the human rights situation in Hong Kong.

45. The Hong Kong SAR strongly urges the Special Rapporteurs not to lose sight of their duty to maintain impartiality and to uphold the principles of independence, fairness and objectivity. On the basis of full respect for the sovereignty and territorial integrity of the People’s Republic of China, including the fact that the Hong Kong SAR is an inalienable part thereof, and for the principles of sovereign equality and non-interference in internal affairs laid down in the Charter of the United Nations, the Hong Kong SAR is willing to engage in constructive exchanges with the Special Rapporteurs on human rights issues of common concern.