

Carrie Lam  
The Chief Executive  
Hong Kong Special Administrative Region  
of the People's Republic of China  
Office of the Chief Executive  
Hong Kong

20 November 2019

Dear Ms Lam,

The Bar Human Rights Committee of England and Wales (BHRC) expresses grave concern at the situation at the Hong Kong Polytechnic and across the city. We call on you to take urgent steps to de-escalate the crisis which has been growing over recent months and has deepened intensely in recent days. We express our further concern that many of the steps which have been taken by the Hong Kong authorities in respect of the protests, and further comments by the Central People's Government or its officials, are in fact exacerbating the situation on the ground.

You will recall that we wrote to you on the 14 June 2019, along with other leading international legal organisations with our joint observations on the Extradition Bill.<sup>1</sup> We considered the Bill to be ill-conceived and that it would fundamentally imperil the operation of the rule of law in Hong Kong. We were pleased to see that it was withdrawn eventually but it is clear that the Bill, and the refusal to withdraw it earlier, formed a trigger to the wave of protests which have followed in Hong Kong over recent months. We understand that over 4400 people have been arrested since the protests against the Extradition Bill began.

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<sup>1</sup> <http://www.barhumanrights.org.uk/hong-kongs-ill-conceived-extradition-proposals-fundamentally-imperil-the-operation-of-the-rule-of-law-say-leading-international-law-organisations/>

The people of Hong Kong are guaranteed the right to freedom of association, procession and peaceful assembly under the Hong Kong Basic Law and pursuant to international law. However, steps taken by the authorities over recent months have sought disproportionately to limit and prevent legitimate and non-violent protest and assembly, including the enactment of the anti-mask law which was struck down in the Hong Kong High Court on Monday.

On 13 September 2019, BHRC released a detailed statement calling for the police to refrain from using disproportionate and deadly force, and for a full inquiry into serious and wide-ranging allegations of police brutality.<sup>2</sup> Those requests have gone unheeded, and the situation has now escalated to a very dangerous level.

We recognise that a minority of the protestors have had recourse themselves to violence and we condemn any violence deployed on all sides. Notwithstanding this, we do not consider that the Hong Kong authorities have taken adequate steps to demonstrate to the public that maximum restraint will be used by the police and authorities in the use of force against those seeking to exercise their lawful right to protest. Instead, credible media and social media coverage appears to show a reckless and arbitrary widespread use of force by the police, including arrests and use of force against journalists documenting the protests and first-aiders treating injured people.

BHRC is particularly concerned by reports that the use of live ammunition by police is being considered. Such action would be in breach of UN Basic Principles on the use of force by law enforcement and constitute a gross and unwarranted escalation of violence by the Hong Kong authorities. We are also concerned that tactics already being deployed including the firing of projectiles and teargas into confined areas, which represent a grave and disproportionate danger to life. There are further reports of protestors being shot at close range. We understand that no or no commensurate disciplinary measures against police officers have been initiated. The failure to hold the state publicly accountable for

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<sup>2</sup> [http://www.barhumanrights.org.uk/wp-content/uploads/2019/09/Hong-Kong\\_-Police-Brutality-Statement-Sept-2019\\_UPDATED.pdf](http://www.barhumanrights.org.uk/wp-content/uploads/2019/09/Hong-Kong_-Police-Brutality-Statement-Sept-2019_UPDATED.pdf)

alleged violations of fundamental rights lends further concern to protestors concerned about the demise of the rule of law amidst impunity for such violations.

BHRC calls on your government to ensure that it upholds the rule of law, as clearly provided in the Basic Law. The exercise of judicial power, by way of judicial review, has formed part of the judicial independence recognised within the Basic Law and should remain free from political interference. Recent pronouncements by the Central People's Government or its officials may appear or be taken as an official form of pressure on judges to achieve specific objectives. These include comments made today, reported in the Xinhua News Agency, on the legitimacy of the decision of the Hong Kong High Court to strike down your government's anti-mask provisions. Such comments are likely to be viewed as an encroachment on the independence of the judiciary, which is a cornerstone principle of the rule of law. The perception of any interference is likely to further destroy trust in the rule of law and fundamental rights.

We call again on the Hong Kong authorities to initiate an urgent and independent investigation into the allegations of police brutality, to call for the police and state authorities to exercise maximum restraint in the use of force and to take steps to ensure that the rule of law in Hong Kong, and public confidence in the same, is neither eroded nor impeded.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'S. Jolly', written over a diagonal line.

**Schona Jolly QC**

Chair, Bar Human Rights Committee of England and Wales

The Bar Human Rights Committee of England and Wales (BHRC) is the international human rights arm of the Bar of England and Wales, working to protect the rights of advocates, judges and human rights defenders around the world. The BHRC is concerned with defending the rule of law and internationally recognised legal standards relating to human rights and the right to a fair trial. It is independent of the Bar Council.

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