

**Get the Fundamentals Right
and Safeguard the Rule of Law**

Keynote Speech by H.E. Mr. Xie Feng

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in the Hong Kong SAR

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The Honorable Chief Executive Carrie Lam,

Secretary General Prof. Dr. Kennedy Gastorn,

Secretary of Justice Teresa Cheng,

President Huang Jin,

Chairman Dr. Anthony Neoh,

Distinguished Guests,

Friends,

Good morning. It gives me great pleasure to attend again the Colloquium on International Law.

For the fourth consecutive year, the colloquium has been held in Hong Kong, which fully shows the importance the SAR Government led by Chief Executive Carrie Lam has attached to the rule of law, and the universal recognition of Hong Kong's performance in this regard. According to the World Justice Project Rule of Law Index 2019, Hong Kong ranks 16th among 126 countries and jurisdictions.

To our great distress, however, some radical forces in Hong Kong have ramped up violent crime in recent months, which has gone beyond the limits of law, morality and humanity. To make things worse, some foreign forces have condoned and even colluded with them, seriously undermining law and order in the city. That makes our discussions here on the rule of law even more relevant.

I've been in the diplomatic service for 33 years, but I was an international law major in my undergraduate years. So I'd like to take this opportunity to share with you my thoughts on three issues of common interest.

First, on the non-intervention principle of international law.

Sovereign equality and non-intervention are two fundamental principles of international law. In the early 17th century, Hugo Grotius, founding father of international law, proposed the principle of sovereign equality, which emphasizes that states, big or small, strong or weak, have equal rights and obligations, thus laying the foundation of post-Westphalian international relations. The non-intervention principle came into being as the necessary requirement of sovereign equality. As the renowned international lawyer Vattel argued, "It is an evident consequence of the liberty and independence of nations, that all have a right to be governed as they think proper, and that no state has the smallest right to interfere in the government of another. Of all the rights that can belong to a nation, sovereignty

is, doubtless, the most serious, and that which other nations ought the most scrupulously to respect.”

Sovereign equality and non-intervention have been established as basic principles of modern international law and norms governing international relations. For example, Article 2, Paragraph 1 of the *Charter of the United Nations* states that “The Organization is based on the principle of the sovereign equality of all its Members.” Paragraph 7 of the same article provides that “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state.” The Declaration on Principles of International Law adopted by the UN General Assembly (UNGA) in 1970 further clarifies that “Every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State”, and that “No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State.” Other declarations adopted by the UNGA also point out that States have the duties to “refrain from the exploitation and the distortion of human rights issues as a means of exerting

pressure on other States or creating distrust and disorder within and among States or groups of States”, to “abstain from any defamatory campaign, vilification or hostile propaganda for the purpose of intervening or interfering in the internal affairs of other States”, and to “refrain from any action or attempt in whatever form or under whatever pretext to destabilize or to undermine the stability of another State or of any of its institutions”. *The Helsinki Final Act* of the Conference on Security and Cooperation in Europe in 1975 also stipulates that “The participating States will refrain from any intervention, direct or indirect, individual or collective, in the internal or external affairs falling within the domestic jurisdiction of another participating State, regardless of their mutual relations.” In the *Military and Paramilitary Activities case (Nicaragua vs. U.S.)*, the International Court of Justice (ICJ) ruled that the principle of non-intervention “is part and parcel of customary international law”.

International law clearly defines the functions of diplomatic agents and consular officers who officially represent the sending State in the receiving State, requiring them not to interfere in the internal affairs of the receiving State. Article 41

of the *Vienna Convention on Diplomatic Relations* and Article 55 of the *Vienna Convention on Consular Relations* stipulate that it is the duty of diplomatic agents and consular officers “to respect the laws and regulations of the receiving State”, and “not to interfere in the internal affairs of that State”. And as the ICJ explained, the principle of non-intervention was established “for, from the nature of things, it would be reserved for the most powerful States, and might easily lead to perverting the administration of international justice itself”. The observation lays bare hegemony at the core of intervention.

Throughout history, many developing countries including China have suffered a lot from intervention by foreign powers. As the most recent example, some countries have grossly interfered in Hong Kong affairs, which are China’s domestic affairs, and even threatened to cancel economic and trade privileges of Hong Kong and sanction SAR Government officials. Politicians of certain Western countries, including Vice President, Foreign Minister, House Speaker, Congressmen and consular officers in Hong Kong, have frequently met with radical activists calling for so-called “Hong Kong independence”. They have told blatant lies, applauded violence

as “a beautiful sight to behold”, made unfounded allegations against the Hong Kong police, groundlessly accused Beijing of “encroaching on Hong Kong people’s autonomy and freedom”, and even boasted that their diplomats “meet with opposition protesters, not just in Hong Kong or China”. Such remarks and actions have flagrantly defied the principle of non-intervention, and trampled upon international law and basic norms governing international relations.

Intervention is a serious violation of international law, which puts common interests of all countries at risk and breeds chaos around the globe. We call on the forces for justice in the world who cherish peace and the rule of law to unite behind the basic principles of international law and norms governing international relations, including non-intervention, and jointly uphold the international order based on international law.

Second, on the Sino-British Joint Declaration.

In recent months, certain countries have frequently cited the Sino-British Joint Declaration on the Question of Hong

Kong to justify their right to “supervise” Hong Kong affairs. But anyone who has studied the instrument knows well such claims do not hold water.

Firstly, the Joint Declaration is an important instrument between China and the UK on China’s resumption of the exercise of sovereignty over Hong Kong and arrangements for the transitional period. There is no single clause in it that grants the UK any right to interfere in Hong Kong affairs after its return, and all clauses concerning the UK have been fulfilled.

The Joint Declaration consists of eight paragraphs and three annexes. Article 1 is about China’s decision to resume the exercise of sovereignty over Hong Kong. In Article 2, the UK states that it will restore Hong Kong to China. These two articles have been fulfilled upon the return of Hong Kong. In Article 3 and Annex 1, China elaborates its basic policies regarding Hong Kong, yet with not the least implication of UK’s rights and obligations. Articles 4, 5 and 6 and Annexes 2 and 3 provide for relevant arrangements during the transitional period, including the administration of Hong Kong, the establishment and

operation of a Sino-British Joint Liaison Group, land leases and ratification. Articles 7 and 8 are about the implementation and entry into force of the instrument. All these provisions have been fulfilled with the return of Hong Kong and the completion of ensuing work.

Secondly, the basic policies regarding Hong Kong elaborated in the Joint Declaration were proposed by China on its own and hence are completely China's domestic affairs, rather than an agreement between the two sides. As Article 3 of the instrument clearly states, "The People's Republic of China has decided to establish, in accordance with the provisions of Article 31 of the Constitution of the People's Republic of China, a Hong Kong Special Administrative Region upon resuming the exercise of sovereignty over Hong Kong." It shows that the legal basis of implementing "One Country, Two Systems" in Hong Kong is China's Constitution, instead of the Joint Declaration.

Thirdly, the Joint Declaration includes no clause that provides for British obligations to Hong Kong after the city's

return. All legal relations between the UK and Hong Kong created by the instrument had terminated by 1 January 2000 at the latest, when the Sino-British Joint Liaison Group ceased operation. The UK is not entitled to claim any new rights over or obligations to Hong Kong by citing the Joint Declaration. To be brief, the UK has no sovereignty, jurisdiction or right of “supervision” over Hong Kong whatsoever after the latter returned to China.

It needs to be emphasized that the Joint Declaration is a bilateral instrument between China and the UK and does not concern any other country. According to general international law, other countries and organizations have no right to meddle with Hong Kong affairs on the pretext of the Joint Declaration.

Third, on “One Country, Two Systems”.

The policy of “One Country, Two Systems” was put forward by the Chinese Government itself. It is a pioneering initiative based on the principles of sovereign equality and peaceful settlement of disputes in international law, and is a

major contribution by China to developing international law. In order to fully and accurately grasp the policy, it is necessary to understand at least two points.

Firstly, it is China's Constitution that lays the very foundation of the HKSAR. The HKSAR where "One Country, Two Systems" is practiced was established according to China's Constitution. As early as in 1982, two years before the Sino-British Joint Declaration was signed, China's Constitution provides that "The state may establish special administrative regions when necessary." The Basic Law of the HKSAR codifies the "One Country, Two Systems" policy into law with concrete provisions. Therefore, the Constitution of the PRC and the Basic Law of Hong Kong together constitute the constitutional basis of the HKSAR, which is supported by solid political and legal grounds and successful practices. Focusing solely on either of the laws or separating and even confronting the two is incomplete and misleading, and inconsistent with the reality since Hong Kong's return.

Secondly, it is imperative to correctly understand the

relationship between “One Country” and “Two Systems”. “One Country” is the foundation of and prerequisite for “Two Systems”, and “Two Systems” can only operate within the framework of “One Country”. Article 1 of the Basic Law makes it clear that “The Hong Kong Special Administrative Region is an inalienable part of the People’s Republic of China”, and Article 12 provides that “The Hong Kong Special Administrative Region shall be a local administrative region of the People’s Republic of China, which shall enjoy a high degree of autonomy and come directly under the Central People’s Government.” It fully demonstrates that Hong Kong is part of China rather than an independent or semi-independent political entity, and that the Central Government has overall jurisdiction over Hong Kong, while Hong Kong enjoys a high degree of autonomy under the Basic Law. Should the “One Country” principle be undermined, “Two Systems” would not materialize. As a local administrative region of China, Hong Kong has the constitutional responsibility of upholding national unity and territorial integrity, and defending national sovereignty and security. Any attempt to endanger China’s sovereignty and security, challenge the power of the Central Government and the authority of the Basic Law, or use Hong Kong to carry out

infiltration and sabotage activities against the mainland is absolutely impermissible.

Our position is clear and consistent. We respect the differences between the “Two Systems” and well leverage their benefits on the basis of “One Country”, and ensure a high degree of autonomy in Hong Kong in accordance with law. This has not and will not change.

Looking back at the more than 150 years when Hong Kong was under British colonial rule, one will find that no single Governor was democratically elected by the local people, and legislature members were directly appointed by the Governor most of the time. The people of Hong Kong today, by contrast, are their own masters and govern affairs within the limits of the SAR’s autonomy in accordance with law. It is an undeniable fact that Hong Kong citizens are enjoying unprecedented democratic rights and freedoms. Unfortunately, some people continue to claim “rights” that never existed in Hong Kong, and even accuse China’s Central Government of “eroding” these “rights”. Such argument is legally groundless and inconsistent with the reality,

and has again exposed their prejudice, arrogance and hypocrisy.

Ladies and Gentlemen,

Friends,

The rule of law is the cornerstone for justice, security and order of any society, and international law provides vital institutional guarantee for national sovereignty, world peace and common development.

The essential problem in Hong Kong now is not about human rights, freedoms or democracy as some claim. It is, instead, about the attempt by certain violent extremists to coerce those who do not know the truth and ramp up violent crime on the pretext of opposing the amendments of the two ordinances related to fugitive transfer, seriously trampling upon law and order, threatening the security of the citizens, and damaging Hong Kong's prosperity and stability. It is about the intention of the opposition and violent extremists to overthrow the legitimate SAR Government, challenge the Central Government's authority,

and undermine the constitutional basis of “One Country, Two Systems” in Hong Kong through illegal means such as violence. It is about gross foreign interference in Hong Kong affairs and China’s domestic affairs as a whole, violating international law and basic norms governing international relations with the aim of damaging Hong Kong’s prosperity and stability and China’s national sovereignty and security, and turning Hong Kong into a pawn to hold back China’s national rejuvenation.

As Hong Kong is facing the most dangerous and gravest situation since its return 22 years ago, the top priority is to stop violence, end the chaos and restore order. The Central Government firmly supports the SAR Government led by Chief Executive Carrie Lam in governing according to law, firmly supports the Hong Kong police and judiciary in decisively enforcing the law and fairly administering justice, and firmly supports the majority of Hong Kong compatriots in their just cause of opposing violence, upholding the rule of law, and supporting the police.

Hong Kong is part of China, and its affairs are completely

China's domestic affairs. Any violent act to undermine the rule of law, damage the city's prosperity and stability, and challenge "One Country, Two Systems" will meet with severe legal punishment. Any interference in Hong Kong affairs by foreign governments, organizations or individuals will be resolutely fought back by all Chinese people, including our Hong Kong compatriots. And any plot to hinder China's national rejuvenation is doomed to fail.

We are fully convinced that with the unique strength of the "One Country, Two Systems" framework, with the strong backing of the motherland and the people of the mainland, with the joint efforts of our Hong Kong compatriots, and with the understanding and support of the international forces for justice, including all our friends here, who love peace, oppose violence and cherish the rule of law, Hong Kong will surely overcome the temporary difficulties, and the "Pearl of the Orient" will shine even brighter.

In closing, I wish this colloquium a great success. Thank you.