



Risk of interceptions of communications subject to legal professional privilege

Edward Snowden's act of entrusting his liberty to the legal system in Hong Kong speaks volumes about the international reputation that Hong Kong has earned for itself in upholding the rule of law, freedom of speech and protection of human rights.

Any unauthorised cyber surveillance and hacking operations against the people of Hong Kong pose a serious threat to our fundamental rights to the freedom and privacy of communications as enshrined in Article 30 of the Basic Law and Article 14 of the Hong Kong Bill of Rights.

Our right to confidential legal advice protected under Article 35 of the Basic Law is also at grave risk.

Legal professional privilege is fundamental to the rule of law and the relationship between lawyers and clients. It is highly likely that any surveillance and hacking operations of a scale as alleged could have intercepted communications subject to legal professional privilege. Indeed, one Hong Kong law firm representing an internet entrepreneur, who is fighting extradition to the US to face various criminal charges, has already written to the US Department of Justice to express fears that legally privileged material may have been intercepted.

It is the duty of every Hong Kong lawyer to uphold the rule of law. In order to protect the independence and effectiveness of our legal system, we urge the Government to:

- (a) investigate with relevant foreign governments the allegations made by Edward Snowden and the extent of the alleged intrusion; whether any organizations or companies have made agreements with foreign governments to release information under surveillance requests; and whether any unlawful “back door” is being installed in electronic devices or hardware; and
- (b) put in place mechanisms to protect the people of Hong Kong from cyber surveillance and interception.

The Government must fulfill its duty to protect the people's freedom and privacy of communications (including privileged communications between lawyers and clients) from invasion and violation. The Law Society urges the Government to take immediate and effective action.