

LCQ 21: Injunctions

Following is a question by the Hon Ng Leung-sing and a written reply by the Secretary for Justice, Mr Rimsky Yuen, SC, in the Legislative Council today (November 5):

Question:

On October 20 this year, the High Court granted interim injunctions restraining participants of the assemblies triggered by the Occupy Central movement from continued occupation of certain passageways in Mong Kok and obstruction of the entrance to the car park, the fire access and emergency vehicular access of a building in Admiralty. Protesters are also forbidden to obstruct the plaintiffs from removing the obstacles in question. However, some protesters refused to obey the injunctions. In this connection, will the Government inform this Council:

(1) whether it knows the total number of interim and formal injunctions granted by the High Court in the past five years, and the enforcement situation of such injunctions; and

(2) as some protesters refused to obey the aforesaid injunctions, what actions the law enforcement agencies intend to carry out; whether, in the light of this incident, the authorities will consider comprehensively reviewing and improving the mechanism for enforcing injunctions?

Reply:

President,

The rule of law is the cornerstone of Hong Kong's success and the Government places great importance in upholding the rule of law. Amongst others, respect for the authority of the Court is a fundamental aspect of the concept of the rule of law. Court orders, including injunction orders (whether

interim or permanent), should be fully respected and strictly followed. Even if a party does not agree that an injunction should be granted, the party should lodge an appeal or make other appropriate application to the relevant Court pursuant to the relevant procedure instead of deliberately acting in breach of the injunction. Loss of respect for the Courts and the orders they make will erode the rule of law, which in turn will cause harm to our society.

The Government's reply to the Member's question is as follows:

(1) Application for injunction is a type of civil proceeding dealt with by the Courts. We have consulted the Judiciary on this part of the question. We have been advised that the Judiciary does not have readily available statistics on the number of injunctions granted by the Courts in the past five years.

Enforcement of injunctions is generally dealt with by the parties to the relevant civil proceedings, although the Bailiffs will render assistance as and when appropriate and Judges will deal with such applications as may be incidental to the enforcement of injunctions. According to its records, the Judiciary has received a total of six applications in the past five years requesting the assistance of the Bailiffs in the serving of injunction orders. All of the orders in these six requests have been duly served.

(2) Since applications for injunction are civil (as opposed to criminal) in nature, they are generally and mostly handled by private litigants. Accordingly, in the absence of specific Court direction or order, the Police are generally not involved in the enforcement of an injunction order. However, the Police have a statutory duty under the Police Force Ordinance, Cap 232 to take appropriate actions if a breach of the peace occurs or when suspected criminal acts have been committed. If the relevant Court order expressly directs the

Police to perform certain specified acts for the purpose of assisting a party to enforce an injunction, the Police will provide such assistance as is specified in the relevant Court order.

An injunction is a solemn order made by the Court and that it is in the overall and long-term interests of the rule of law and the proper administration of justice that all injunction orders should be complied with. With a view to protecting the due administration of justice (which is fundamental to the upholding of the rule of law), the Government (through the Police or otherwise) is ready and willing to assist in the enforcement of the injunction orders in such ways as the Court may find it appropriate to direct.

As regards the specific cases referred to in the question, before the Court hands down its judgments, the Police will continue to dispatch appropriate manpower and make appropriate deployment to maintain public order and protect public safety. The Government also urges those who are unlawfully blocking the roads should strictly and fully observe the relevant Court orders as soon as possible.

On the mechanism for enforcing injunctions, the Government will, as usual, keep the relevant law under review and will consider the need of any reform as and when necessary.

Ends/Wednesday, November 5, 2014