

LCQ8: Rule of Law

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Following is a question by Hon Wong Ting-kwong and a written reply by the Secretary for Justice, Mr Rimsky Yuen, SC, in the Legislative Council today (May 6):

Question:

It has been reported that the Hong Kong Ideas Centre carried out a study on the situations and aspirations of young people in Hong Kong, and conducted a random telephone survey between January and March this year with a sample of 1 505 young people aged between 15 and 39. As shown by the findings of the study, over 80% of the respondents considered that abiding by the law was an obligation of every member of the public. However, nearly 40% of the respondents considered that there was nothing wrong to adopt civil disobedience as a means of fighting for justice. In the group of young people aged between 20 and 24, the percentage of respondents agreeing to this view was as high as 47.1%. When asked whether they would take part in a movement similar to the occupation movement should it occur, 25.4% of the respondents indicated that they would. In this connection, will the Government inform this Council:

(1) whether the authorities have studied the impact of the occupation movement on the rule of law in Hong Kong after its conclusion; if they have, of the details; if not, the reasons for that;

(2) as the findings of the aforesaid study showed that the core values to which the respondents attached importance were in the order of freedom from corruption, freedom, justice and the rule of law, with the rule of law receiving the lowest ranking, whether the authorities have studied why young people nowadays attach relatively less importance to the rule of law; and

(3) as nearly 40% of the respondents agreed to fighting for justice by confrontational means, whether the authorities have assessed the impact of this view on the overall development of Hong Kong; how the authorities will enhance the law-abiding awareness of young people?

Reply:

President,

The rule of law is a fundamental core value of the Hong Kong society underpinning its success as well as an important and indispensable pillar of its competitiveness. It is a treasure of our community. Every citizen, including young people, the government and the entire community, irrespective of their position and role, should make every effort to uphold and defend the rule of law, including respecting and complying with court decisions.

Our consolidated reply to the question raised by Hon Wong Ting-kwong is as follows:

Since the "Occupy Movement" had begun, different members of the community have made remarks concerning the rule of law, some of which have distorted the spirit of the rule of law and may have a negative impact on the citizens, including young people. The Hong Kong Special Administrative Region (HKSAR) Government has been paying attention to such a situation.

On the other hand, the Hong Kong and the international communities generally considered that Hong Kong's rule of law and judicial independence were functioning well during the "Occupy Movement", effectively withstanding various challenges and impacts, while their foundations remained unshaken. Indeed, as clearly provided for in the Basic Law, the legal system practised and the independent judicial power and the power of final adjudication enjoyed in Hong Kong are

fully protected at the constitutional level.

On November 10, 2014, the Honourable Mr Justice Au of the Court of First Instance of the High Court ruled on the applications for interim injunction concerning the "Occupy Movement". The relevant judgment contained a clear exposition of the concept of the rule of law. The key points include:

(1) The concept of the rule of law must include the notion that every citizen and the government alike should obey and comply with the law.

(2) Even if the defendants are of the view that a court order is wrongly granted, instead of simply disobeying it, they should first comply with it and then seek to challenge that order pursuant to the judicial process. The law cannot allow obedience of its orders to be a matter of individual choice.

(3) It is wrong for any suggestions that the rule of law is not undermined or under challenged if people can freely or intentionally disobey the law first and then accept the legal consequences. The rule of law cannot realistically and effectively operate in a civilised and orderly society on this basis.

(4) The upholding of the rule of law must be built upon, among others, the due administration of justice for the enforcement of court orders and the law.

(5) Worryingly, there have been repeated open suggestions by a number of public figures (including some legally trained individuals) to the public and the protestors and demonstrators en masse to the effect that ex parte injunctions need not to be complied with until they had been determined after an inter partes hearing, and that there is no challenge to the rule of law from merely disobeying civil orders, and that the rule of law is only threatened when there is

disobedience of an actual order of committal for contempt of court. These suggestions are wrong and incorrect and would cause the public and the defendants an unwarranted misunderstanding on the concept of the rule of law.

Moreover, when the Court of Appeal dealt with the relevant applications for leave to appeal, it clearly stated that it echoed the above observations made by the Honourable Mr Justice AU.

The Department of Justice (DoJ) welcomes the courts' exposition of the concept of the rule of law. While respecting citizens' rights of peaceful expression of views, the HKSAR Government has been advising citizens, including young people, to abide by the laws of Hong Kong and court orders and respect others' rights when expressing their aspirations. They are also advised to express their views in a rational, peaceful and law abiding manner, or else there would be profound negative impact on Hong Kong.

At the same time, the HKSAR Government has been promoting and publicising the concept of the rule of law to the citizens, including young people, through various channels. These works include:

(1) Apart from actively participating in the "Law Week" organised by the Law Society of Hong Kong on an annual basis, the DoJ also organises the "Prosecution Week" event and "Meet the Community" programme to further enhance citizens' understanding, in particular that of young people, of the criminal justice system, their role therein and their appreciation of the importance of the rule of law through activities such as visits, talks, mock court as well as different types of competitions.

(2) The Government has been working with the Committee on the Promotion of Civic Education to promote civic education outside schools with the focus on the core civic value of

"respect and inclusiveness". This seeks to promote the importance of mutual respect and accommodating people with diverse cultural background, different views and perspectives with a view to enhancing social harmony and promoting messages concerning the upholding of the rule of law.

For instance, the Youth Community Legal Information Centre (CLIC) website ([youth.clic.org.hk](http://youth.clic.org.hk)) developed and run by the University of Hong Kong with sponsorship from Home Affairs Bureau was launched in April 2012 to provide information and videos on more than 60 offences and legal issues concerning young people. The contents of the Youth CLIC website have also been converted into teaching packages for Liberal Studies in secondary schools, which are downloadable free of charge from the Youth CLIC website.

(3) For the purposes of upholding the rule of law and maintaining law and order, the Police are committed to raising citizens' law abiding and crime prevention awareness through various channels. Specifically for young people, with the introduction of the Junior Police Call and the Police School Liaison Programme, the Police strengthen communication with young people and students so as to give them an understanding of the role of the Police and the importance of respecting law and order, as well as to help them develop a sense of discipline and positive values. In the light of the development of the Internet and social media in recent years, the Police actively disseminate updated information through the Internet and social media platforms, such as the Police Public Page, Hong Kong Police Mobile Application and Hong Kong Police YouTube Channel, to enhance interaction with young people and raise their awareness in law abiding and crime prevention.

(4) The Education Bureau has strived to promote the spirit of the rule of law among students. To deepen students' understanding of the spirit of the rule of law, the related

learning contents are covered in various Key Learning Areas/subjects, including General Studies for primary schools, Life and Society at junior secondary levels and Liberal Studies at senior secondary levels.

In addition, "recognising the importance of the rule of law and respect for human rights" has been accorded as one of the major expected learning outcomes at Key Stage 4 in the Revised Moral and Civic Education Curriculum Framework (2008). Furthermore, in the Basic Education Curriculum Guide (P1-P6) 2014, schools have been recommended to strengthen their Moral and Civic Education through developing students' positive values, including the spirit of the rule of law.

The Education Bureau has also placed great emphasis on enhancing students' understanding of core values and developing their positive values. The Bureau has recommended that schools adopt daily life events and topics as learning materials to help students hold onto such core values as the rule of law, integrity, freedom and justice in a fast-changing social environment. The Bureau will continue to place emphasis on students' whole person development and offer teachers suitable professional support (e.g. developing learning and teaching resources, organising professional development programmes and creating teachers' networks) to enable them to instil positive values in students through suitable learning experiences that are relevant to their daily lives and can help them cope with the changes they face.

The HKSAR Government will continue with the above work, and is proactively considering ways to enhance this area of work. The DoJ will also continue to steadfastly uphold the rule of law and safeguard judicial independence in Hong Kong.

Ends/Wednesday, May 6, 2015