

HKSAR Government strongly opposes interference with judicial proceedings in the HKSAR under pretext of press freedom

The Government of the Hong Kong Special Administrative Region (HKSAR) today (May 16) strongly opposed and vehemently condemned the blatant and wrongful attempt by some organisations and individuals to interfere with the judicial proceedings in the HKSAR, especially Lai Chee-ying's case concerning the Hong Kong National Security Law (NSL), under the pretext of press freedom. Such an attempt is an affront to the rule of law.

The arrest and prosecution of Lai Chee-ying and other entities concerned are completely unrelated to the issue of press freedom. Rather, they were arrested and prosecuted for suspected criminal activities such as fraud and collusion with a foreign country or with external elements to endanger national security.

Hong Kong's judicial system has always been highly regarded by international communities. Any attempt by any country, organisation, or individual to interfere with the judicial proceedings in the HKSAR by means of political power, in order to procure a defendant's evasion of the criminal justice process, is a reprehensible act undermining the rule of law of Hong Kong. Making a statement with the intent to interfere with or obstruct the course of justice, or engaging in conduct with the same intent, is very likely to constitute the offence of criminal contempt of court or the offence of perverting the course of justice.

Hong Kong is a society underpinned by the rule of law. Article 25 of the Basic Law provides that all Hong Kong residents shall be equal before the law. Cases will never be handled any differently owing to the profession, political beliefs or background of the persons involved. The suggestion that individuals or organisations with certain backgrounds should be immune from legal sanctions for their illegal acts and activities is tantamount to granting such individuals or organisations privileges to break the law, and is totally contrary to the spirit of the rule of law.

The Department of Justice (DoJ) of the HKSAR, by virtue of Article 63 of the Basic Law, controls criminal prosecutions, free from any interference. Independent prosecutorial decisions for each case are made in a rigorous and objective manner, strictly based on evidence and applicable laws and are in accordance with the Prosecution Code. Prosecutions would be instituted by the DoJ only if there is

sufficient admissible evidence to support a reasonable prospect of conviction, and if it is in the public interest to do so.

As guaranteed by the Basic Law and the Hong Kong Bill of Rights, defendants charged with criminal offences, including those under the NSL, shall have the right to a fair trial by the Judiciary exercising judicial power independently. Article 85 of the Basic Law clearly stipulates that the courts of the HKSAR shall exercise judicial power independently, free from any interference. In all criminal trials, the prosecution has to prove beyond reasonable doubt before the defendant can be convicted, and the defendant has the right to appeal under the law.

Article 5 of the NSL affirms adherence to the principle of the rule of law in safeguarding national security, including the presumption of innocence, the prohibition of double jeopardy, and the right to defend oneself and other rights in judicial proceedings that a criminal suspect, defendant and other parties in judicial proceedings are entitled to under the law.

Article 4 of the NSL clearly stipulates that human rights shall be respected and protected in safeguarding national security in the HKSAR, and that the rights and freedoms, including freedom of the press, which the residents of Hong Kong enjoy under the Basic Law and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights as applied to Hong Kong, shall be protected in accordance with the law. The Hong Kong Court of Final Appeal has pointed out that these two Articles of the NSL are centrally important to the interpretation of the NSL generally.

While press freedom is respected and protected in Hong Kong, such freedom is not absolute. The exercise of such freedom may be subject to restrictions that are provided by law and are necessary for pursuing legitimate aims such as the protection of national security or public order.

Article 16(3) of the Hong Kong Bill of Rights expressly states that the exercise of the right to freedom of expression carries with it special duties and responsibilities. The concept of "responsible journalism" is well-established in international jurisprudence on human rights, and courts have consistently reiterated that journalists cannot be exempted from their duty to comply with ordinary criminal law. Journalists are entitled to the protection of the freedom of expression on the premises that they act in good faith and on an accurate factual basis and provide reliable and precise

information in accordance with the tenets of responsible journalism. Publishers and editors of newspapers are likewise obliged to observe the special duties and responsibilities in journalistic activities.

The HKSAR Government will never tolerate, and strongly deplores, any form of interference by anyone with the judicial proceedings of the HKSAR.

Ends/Tuesday, May 16, 2023