

LCQ20: Self-regulation of professional sectors

Following is a question by the Hon Tony Tse and a written reply by the Secretary for Security, Mr Tang Ping-keung, in the Legislative Council today (September 8):

Question:

Some members of the public have pointed out that a number of professionals such as counsels, solicitors, social workers and healthcare personnel have been convicted and sentenced for participating in unlawful activities during the occupation movement in 2014 or the movement of opposition to the proposed legislative amendments in 2019. However, it is seldom heard that the professional bodies concerned have taken disciplinary actions against such persons or cancelled their professional registrations or practising qualifications. Among such persons, an individual has even been elected a member of the registration board of his profession after serving his sentence. Such members of the public are of the view that the aforesaid situation reflects that individual professional bodies have failed to discharge their duties and responsibilities under "professional autonomy" and "professional self-regulation" to eliminate the black sheep of their professions, thus undermining their own credibility and that of the professions concerned, as well as damaging the overall image of Hong Kong's professional sectors. In this connection, will the Government inform this Council:

(1) whether it knows the respective numbers of counsels, solicitors, social workers and healthcare personnel convicted since 2014 for the commission of unlawful acts related to the occupation movement or the movement of opposition to the proposed legislative amendments and, among them, the number of those sentenced to imprisonment (including suspended sentences); if such information is unavailable, whether it will gather the relevant information expeditiously;

(2) whether it knows the details (including the progress and outcome of the disciplinary actions taken) of the follow-up actions taken by the professional bodies and registration boards concerned in respect of the cases mentioned in (1), and set out the information by profession; if such information is unavailable, whether it will expeditiously request the bodies concerned to provide the relevant information;

(3) of the roles and powers of the Government under the existing legislation in respect of regulating the aforesaid professional bodies and registration boards; and

(4) of the follow-up actions taken by the Government on the allegations that individual professional bodies have failed to discharge their duties and

responsibilities of eliminating the black sheep of their professions?

Reply:

President,

Hong Kong is a society that upholds the rule of law. Any person or institution must abide by the law. In respect of professional bodies, they should, under the principle of not violating the law, operate effectively according to their objects, maintain the credibility and recognition of their own and their professions, foster the development of their professions, and tender their views on issues relating to their professions to the Government. If an individual body or its members are suspected of engaging in illegal activities, the law enforcement agencies will definitely pursue their legal liabilities.

With regard to the Member's question, a reply based on the information provided by the Department of Justice (DoJ), Labour and Welfare Bureau (LWB) and Food and Health Bureau (FHB) is set out below:

(1) and (2) In terms of the overall statistics, in respect of the illegal occupy movement in 2014, the Police arrested a total of 1 003 persons. 225 persons were prosecuted of which 169 persons have to bear legal consequences (including 127 persons who were convicted). As regards the illegal acts relating to the violent riots, as at July 31, 2021, the Police arrested 10 265 persons in total and 2 684 persons have been prosecuted. Among the 1 527 persons who have completed the judicial proceedings, 1 197 persons have to bear legal consequences (including 905 who were convicted).

The Government does not keep statistics on the different professionals who were convicted for violating the law. The arrest action by the Police is directed against the criminal act and has nothing to do with the background or occupation of the person(s) concerned. Likewise, the DoJ controls criminal prosecutions, which are based on an objective assessment of all admissible evidence and the applicable law. Prosecutions will not be conducted differently owing to the background or occupation of the persons involved. The Police and DoJ therefore do not maintain information on the occupation of the arrested persons.

In respect of social workers, the LWB indicates that according to the information provided by the Social Workers Registration Board, a total of eight registered social workers have been convicted since 2014 for their unlawful acts related to the illegal occupy movement or the violent riots, and all of them were sentenced to imprisonment (including suspended sentences). For follow-up actions of these eight persons, the Board implemented a disciplinary order of reprimanding one person in writing pursuant to Section 30(c) of the Social Workers Registration Ordinance; approved the applications for registration renewal of three persons; is deliberating on the cases of two persons; and is awaiting the remaining two persons to report the court's verdict on their appeals.

As for healthcare professionals, the FHB indicates that according to the information obtained from the statutory boards and councils of 13 healthcare professions, one occupational therapist and one physiotherapist were convicted for their unlawful acts related to the illegal occupy movement or the violent riots, and neither of them were sentenced to imprisonment. Insofar as follow-up actions are concerned, the Occupational Therapists Board has completed the handling of the concerned case in accordance with the relevant statutory procedures. After deliberation, the Board's Preliminary Investigation Committee (PIC) concluded that there was no professional misconduct and determined that no disciplinary inquiry or further follow-up action was required. Separately, the Physiotherapists Board is handling the concerned case according to the relevant statutory procedures. The case is under deliberation by the Board's PIC.

(3) and (4) Regulatory bodies of professionals are established in accordance with various ordinances and are responsible for regulating the registration and conduct, etc. of specific trades. Regulatory bodies must discharge their statutory functions in accordance with the relevant laws.

Insofar as the legal profession is concerned, according to DoJ, the conduct of solicitors and barristers is regulated by the relevant regulations applicable to their professional branches. Related matters should be handled under the existing self-regulatory regime for the legal profession in Hong Kong.

Under the Legal Practitioners Ordinance and its subsidiary legislation, the Law Society of Hong Kong (Law Society) and the Hong Kong Bar Association (Bar Association) are the respective regulatory bodies of the solicitors' and barristers' branches. In particular, the Law Society and Bar Association are empowered by the Legal Practitioners Ordinance to make rules providing for the conduct and discipline of solicitors and barristers, and to submit a matter on a solicitor's or barrister's conduct to a Solicitors Disciplinary Tribunal or a Barristers Disciplinary Tribunal respectively. An order for suspension or striking off the roll in relation to a solicitor or barrister shall be published in the Gazette in accordance with the Legal Practitioners Ordinance.

In respect of social workers, according to the information provided by LWB, the Social Workers Registration Board is a statutory body established under the Social Workers Registration Ordinance. The Social Workers Registration Ordinance empowers the Board to set and review the qualification standards for the registration of social workers, formulate and approve codes of practice, administer the registration system and handle disciplinary matters, including deciding whether persons convicted of criminal offences can be registered or continue to be registered as social workers.

As regards healthcare professionals, the FHB advises that there are currently 13 healthcare professions in Hong Kong which are subject to statutory registration, including doctors, dentists, dental hygienists, nurses, midwives, Chinese medicine practitioners, pharmacists, occupational therapists, physiotherapists, medical laboratory technologists, optometrists,

radiographers and chiropractors. These healthcare professions are subject to the regulation of respective ordinances and subsidiary legislation. A total of 13 statutory boards and councils were established under the law and are given the power to prescribe the registration requirements, handle and investigate complaints, and take disciplinary actions against registered healthcare professionals for violation of the regulations.

In conclusion, professionals are generally regulated by their regulatory bodies in accordance with the relevant laws. At the same time, the relevant policy bureaux will review the work of the regulatory bodies as necessary to ensure their effective operation. If regulatory bodies fail to discharge their statutory functions, the Government of the Hong Kong Special Administrative Region (HKSAR) will examine the case seriously and follow up in accordance with the actual circumstances.

The HKSAR Government emphasises that professional bodies should discharge their professional duties. If an individual body deviates from its objects of establishment, allowing its profession to be hijacked or overridden by politics, thereby resulting in apparent bias or dereliction of duties, the HKSAR Government will re-examine its relations with the relevant body and take appropriate follow-up measures, including ceasing the Government's relations with that body where absolutely necessary.