

LCQ3: Freedom of assembly and procession amid the epidemic

Following is a question by the Hon Chan Chi-chuen and a reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (June 24):

Question:

To cope with the Coronavirus Disease 2019 (COVID-19) epidemic, the Government made the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (No-gathering Order). It has been reported that on a number of occasions since the No-gathering Order came into operation on March 29, this year, the Police have issued notices of objection to public meetings and processions on grounds of epidemic prevention, and have issued to participants of such events fixed penalty notices for violating the No-gathering Order. In this connection, will the Government inform this Council:

- (1) of the number of COVID-19 patients who reported that they had participated in public meetings or processions within the 14 days prior to being confirmed of infection;
- (2) of the number of notices of objection to public meetings and processions issued by the Police on grounds of epidemic prevention since the coming into operation of the No-gathering Order; and
- (3) as some medical practitioners have pointed out that as long as all participants of public events wear face masks and maintain social distance, their risks of being infected during the events can be greatly reduced, whether the Government has assessed if the objection by the Police to the holding of public events on grounds of epidemic prevention has infringed upon the freedom of assembly and procession enjoyed by Hong Kong residents under Article 27 of the Basic Law; if it has assessed and the outcome is in the affirmative, whether it will request the Police to revise such practice; if the assessment outcome is in the negative, of the justifications for that?

Reply:

President,

According to the views of the World Health Organization and health experts, the Coronavirus Disease 2019 (COVID-19) would not be eradicated before effective treatment methods and vaccines become available. The Government needs to incorporate work in relation to disease prevention and control and infection management into the new normal of the daily operation of society. Hence, there is a need for the Government to reduce the risk of the novel coronavirus disease spreading in the community through various social distancing measures. Currently, the Government adopts the "suppress

and lift" strategy, striving to strike a balance among factors such as public health protection, economic impact and society's acceptance level, etc., with a view to maintaining various appropriate anti-epidemic measures on one hand while allowing room for gradual resumption of normal operation and activities in society when the situation permits.

In consultation with the Security Bureau, my reply to the various parts of the question raised by the Hon Chan Chi-chuen is as follows:

(1) According to epidemiological investigation data from the Centre for Health Protection (CHP) of the Department of Health, as at June 23, 2020, none of the confirmed cases of COVID-19 actively reported to the CHP that he/she had participated in public gatherings or processions in the 14 days prior to being confirmed of infection. Yet, this does not mean that public gatherings or processions do not pose risk of spreading the novel coronavirus disease in the community. There is still a need for the Government to maintain appropriate social distancing measures having regard to public health considerations under the "suppress and lift" strategy.

(2) and (3) In Hong Kong, fundamental rights and freedoms are fully protected by the Basic Law, and the right to freedom of expression as well as the right of peaceful assembly are guaranteed by Article 27 of the Basic Law. However, these rights and freedoms are not absolute. According to the International Covenant on Civil and Political Rights and the Hong Kong Bill of Rights Ordinance, the exercise of the right to freedom of expression carries with it special duties and responsibilities. Any person exercising the right to freedom of expression or the right of peaceful assembly should respect the rights of others, and should not compromise public order and public safety while doing so.

In view of the impact of the outbreak of the novel coronavirus disease, the Government has put in place the Prevention and Control of Disease (Prohibition on Group Gathering) Regulation (Cap. 599G) to restrict group gatherings in public places through legislation. This is one of the elements of the overall measures for social distancing, aiming to reduce the risks of transmission of the novel coronavirus disease in the community as far as practicable. No political considerations have ever come into play. Since Cap. 599G coming into effect on March 29 up to June 16, 2020, the Police has prohibited nine public meetings and objected to five public possessions in accordance with the Public Order Ordinance (Cap. 245), having regard to considerations of public safety and public order and for the protection of the rights and freedoms of others.

In the past few weeks, the epidemic situation and number of confirmed cases in Hong Kong have gradually stabilised, and we are currently in the "lifting" phase under the "suppress and lift" strategy. Having considered the public health risks, the Government gazetted on June 16, 2020 the latest directions and amendments under Cap. 599G, relaxing the number of persons allowed in group gatherings in public places from 8 to 50. With the exception of exempted persons, the aforementioned measure to prohibit group gatherings at public places is effective from June 19 till July 2. At the same time, the

Government has also relaxed the restrictions on catering business and scheduled premises, though the relevant premises are still required to continue adopting measures to prevent infection.

At the same time, although the epidemic situation in Hong Kong has subsided, we must keep up our infection prevention measures. Experts also predicted that sporadic infection cases and clusters may possibly continue to appear in Hong Kong. Earlier, Hong Kong came across local cluster cases without known sources. This together with the resumption of school have caused the community and experts to express concerns about whether the cluster cases would cause large-scale outbreaks in the community. The Government is of the view that social distancing measures should generally be maintained at this stage, and that the conditions are not present to allow full relaxation of different kinds of group gatherings in public places.

Furthermore, holding a large scale public gathering in an open public place cannot be directly compared to a group gathering held within a designated area of a premise. For the former, the organiser is unable to effectively put in place infection control measures and ensure that all participants comply with the relevant measures. For the latter, responsible persons of religious venues, catering or scheduled premises, etc., can implement a series of infection control measures within the area of the premises and require all persons entering the said premises to follow the measures. Having considered that members of the public are starting to show signs of fatigue towards disease prevention and control in the community, taking account of the outcome of risk assessment, we have relaxed the number of persons allowed in group gatherings in public places to 50 in order to facilitate the conduct of social and economic activities, such as various sports or local tours, so that society could gradually return to normal business. The Government will review the relevant measures in place from time to time having regard to the development of the epidemic situation and in accordance with the "suppress and lift" strategy, including further adjusting the relevant restrictions on group gatherings.

In view that the global epidemic situation is still not fully under control, and the need for prevention and control of the novel coronavirus disease is becoming the new norm, the Government appeals to the public to stay vigilant, establish good personal hygiene habits, maintain an appropriate social distance from others as far as possible, and adopt necessary anti-epidemic measures in crowded places, in order to help effectively cut the virus transmission chain.

Thank you, President.