

SJ's appeal allowed: Court of Appeal granted interim injunction relating to four specified criminal acts in relation to a song – publication of relevant documents

On May 8, 2024, the Court of Appeal of the High Court allowed the Secretary for Justice's appeal in the court case numbered CACV 274/2023, and granted an interim injunction concerning four specified criminal acts in relation to a song.

A copy of the Court of Appeal's Order dated May 8, 2024 has been uploaded today (May 9) to the websites of the Hong Kong Special Administrative Region Government, the Department of Justice and the Hong Kong Police Force. Members of the public may access the following websites or scan the QR code (attached) to download the relevant documents:

- www.gov.hk/en/theme/courtorder/index5.htm
- www.doj.gov.hk/en/miscellaneous/hca855.html
- www.police.gov.hk/ppp_en/03_police_message/hca855.html

Labour Department investigates fatal work accident in Kai Tak

The Labour Department (LD) is investigating a fatal work accident that happened in Kai Tak this morning (May 8) in which a man died.

The LD immediately deployed staff to the scene upon receiving a report of the accident, and is now conducting an investigation to look into its cause.

Transcript of remarks by SJ at media

session

Following is the transcript of remarks by the Secretary for Justice, Mr Paul Lam, SC, at a media session regarding the interim injunction relating to a song granted by the Court of Appeal of the High Court today (May 8):

Reporter: First, is this court ruling in effect a take-down order targeting internet companies such as Google and Meta, and what concrete steps do they need to take in order to satisfy the Government? Second, in paragraph 74, the appeal judges actually agreed that there is a possibility of chilling effect. How does the Hong Kong government plan to minimise the chilling effect for the public? And third, is the government concerned that this ruling might spook foreign international tech companies in Hong Kong and affect Hong Kong's ambition to be a tech and innovation hub?

Secretary for Justice: As to your first question, we have to remember that, no internet service provider was ever named as a defendant or respondent in this legal proceedings. So the injunctions by themselves are not targeting any internet service provider. But as stated in the judgment, one of the purposes of the injunction is to persuade internet service providers not to facilitate the commission of unlawful act by these specific persons, who are actually the defendants in this proceedings. So the effect is to persuade internet service providers not to provide convenience and not to facilitate the permission of unlawful act. So I think this point is very clear.

And let's also make it crystal clear that the injunction is not aiming at restricting the normal operation of any internet service provider, so I think that takes me actually to your third question. As I said on previous occasions, free flow of information is of crucial importance to Hong Kong. This is a core value that we will do our best to maintain and preserve. The scope of the injunction is extremely narrow, we are concerned with very specific unlawful behaviour and I think there are company policies issued by internet service providers, making clear that they are willing to abide by the local law, in particular court order. So I would expect that they will honour the promise, they will act in accordance with the policy. On that basis, I do not see any reason why there should be any concern that this injunction will discourage or cause an internet service provider to have any concern about operating in Hong Kong and what they are doing as usual.

Now your second question. You referred to paragraph 74 of the judgment where the Court of Appeal mentioned chilling effect. I think you have to read that part of the judgment in context. The Court of Appeal said firstly that freedom of expression, strictly speaking, is not engaged, because we are talking about unlawful act. No one has the right to commit unlawful act in the name of exercising any freedom of expression. But notwithstanding that, the Court of Appeal accepted that there might be practical concern that the injunction might cause some so-to-speak chilling effect. And it is for this reason, the Court of Appeal actually conducted the well-known proportionality test to consider whether the grant of injunction would in fact lead to any

disproportional or unreasonable restriction on the freedom of expression. But after conducting that proportionality analysis, the Court came to the conclusion that in all the circumstance, the injunction would not cause any unreasonable restriction on freedom of expression. So in effect, the court has taken into account any possible concern about chilling effect but disagreed that this provided a reason for concluding there would be any unreasonable restriction on the freedom of expression.

(Please also refer to the Chinese portion of the transcript.)

[Henry G. Leong Yaumatei Community Centre temporary shelter opened](#)

Due to a fire incident at a building on Temple Street in Jordan, the Yau Tsim Mong District Office (YTMDO) today (May 8) has opened the temporary shelter at Henry G. Leong Yaumatei Community Centre (60 Public Square Street, Yau Ma Tei, Kowloon) for residents in need.

The YTMDO will closely monitor the situation, and liaise with other government departments to provide residents with appropriate assistance.

[SJ's appeal allowed: Court of Appeal granted interim injunction relating to a song](#)

A spokesman for the Hong Kong Special Administrative Region (HKSAR) Government said that the Court of Appeal of the High Court today (May 8) allowed the Secretary for Justice's appeal in relation to an interim injunction for a song. The Court of Appeal granted an interim injunction (CACV 274/2023) to prohibit the following four classes of criminal acts relating to the song "Glory to Hong Kong" (or "ã€Šéí~æ|@ã...æ,é|™æ,~ã€‹", referred to below as "the Song"):

(1) Broadcasting, performing, printing, publishing, selling, offering for sale, distributing, disseminating, displaying or reproducing in any way including on the internet and/or any media accessible online and/or any internet-based platform or medium, the Song, whether its melody or lyrics or in combination:

(i) with the intent of and in circumstances capable of inciting others to commit secession, contrary to Article 21 of The Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region; or

(ii) with a seditious intention as defined in section 23 of the Safeguarding National Security Ordinance; and in particular to advocate the separation of the HKSAR from the People's Republic of China; or

(2) Broadcasting, performing, printing, publishing, selling, offering for sale, distributing, disseminating, displaying or reproducing in any way (including on the internet and/or any media accessible online and/or any internet-based platform or medium), the Song, whether its melody or lyrics or in combination, in such a way:

(i) as to misrepresent it as the national anthem insofar as the HKSAR is concerned; or

(ii) as to suggest that the HKSAR is an independent state and has a national anthem of her own;

and with intent to insult the national anthem, contrary to section 7 of the National Anthem Ordinance; or

(3) Wilfully assisting, causing, procuring, inciting, aiding, abetting others to commit or participate in any of the acts as set out in paragraph (1) or (2); or

(4) Knowingly authorising, permitting or allowing others to commit or participate in any of the acts as set out in paragraph (1) or (2).

The interim injunction also covers the following items:

(a) The acts of publishing the items via the Uniform Resource Locators (URLs) set out in the Schedule thereunder; and

(b) Any adaptation of the Song, the melody and/or lyrics of which are substantially the same as the Song.

The spokesman for the HKSAR Government said that the purpose of applying for the injunction is to safeguard national security and preserve the dignity of the national anthem. The Song has been widely circulated since 2019, and has been used to incite others to participate in acts and activities which are very likely to constitute offences such as secession and sedition, thereby endangering national security. The Song has also been mistakenly presented as the "national anthem of Hong Kong" (instead of the correct one "March of the Volunteers"). This has not only insulted the national anthem but also caused serious harm to the State and the HKSAR. The HKSAR Government has acted in accordance with the law and applied to the Court for an injunction for discharging the constitutional duty of the HKSAR Government to safeguard national security by effectively preventing, suppressing and imposing punishment on acts or activities endangering national security.

The Basic Law, the Hong Kong National Security Law and the Hong Kong Bill of Rights Ordinance and other relevant laws fully guarantee that Hong Kong residents enjoy basic rights and freedom, including freedoms of speech and of the press, in accordance with the law. However, such freedoms are not absolute. Relevant international covenants recognise that the law may impose reasonable and necessary restrictions on the exercise of such rights in order to safeguard national security. This is a common practice in many countries. The application pursues the legitimate aim of safeguarding national security and is necessary, reasonable, legitimate, proportionate and consistent with the requirements of the Hong Kong Bill of Rights. The interim injunction will not in any way affect law-abiding Hong Kong citizens in exercising their rights and freedoms in accordance with the law.

It has never been the intent of the application to cover or affect lawful and legitimate activities conducted in or outside Hong Kong for the purposes such as academic activity and news activity. For the avoidance of doubt, the interim injunction clearly states that lawful academic activity and news activity will not be prohibited on condition that such activities do not involve any of the acts mentioned in paragraphs (1) to (4) above.

The full text of the interim injunction will in due course be uploaded to the websites of the Government of the HKSAR, the Department of Justice and the Hong Kong Police Force. Addresses of the websites and the QR codes will be announced after the uploading.

Any person who violates the interim injunction order may be held liable for contempt of court. Members of the public must not defy the law.