

**Answers to Questions raised by Members of LegCo Panel on Security on
1 March 2001**

Hon James TO

Q1 As mentioned in paragraph 4 of the Panel paper, the Government will keep in view Falun Gong's activities. Will this require the deployment of the Police's Security Wing, under its charter, to perform that function? Will the saying that Falun Gong is a cult leading people to superstitious beliefs trigger Security Wing to monitor through surveillance the activities of the office-bearers or members of the organization?

A1 Security Wing (SW) is responsible for a range of security-related matters, including VIP Protection, counter-terrorism and security coordination. It would not be appropriate to comment on operational deployment of SW.

Q2 May the Chief Executive, under section 33 of the Telecommunications Ordinance, issue an order for interception of telecommunications of cults or organizations which lead people to superstitious beliefs?

A2 Section 33 of the Telecommunications Ordinance allows the Chief Executive to issue an order for interception of any telecommunication message whenever he believes public interests so require. For operational and security reasons, we are unable to comment on the operational details relating to interception of communications.

Hon CHEUNG Man-kwong

Q3 Why do the activities of an organization, which appeals to the Central People's Government, organizes international activities, conducts public processions in an orderly manner, has ample financial resources, is devious in nature and leads others to superstitious beliefs, fall under the

purview of Security Bureau? What are the reasons for the Government to closely observe the activities for such an organization? What is the legal basis for Government intervention?

A3 Security Bureau is responsible for internal security of Hong Kong. If it appears to us that the activities of an organization may affect public order and safety, it is our responsibility to observe their activities as a precautionary measure.

Hon Emily LAU

Q4 How many complaints regarding the distribution of handbills and e-mails by Falun Gong followers have been received by the authorities? What are the investigation results?

A4 We do not have a complete record of complaints specifically related to distribution of handbills and e-mails by Falun Gong followers. Data available show that there had been at least seven complaints of such nature in January and February 2001. As the persons who distributed the handbills might not stay at the same spot for a long time, substantive investigation had not been possible.

Q5 How much resource has been devoted for such monitoring, investigation, surveillance and interception of communications? What are the personnel and equipment deployed for the purpose?

A5 The Police deals with monitoring and investigation, including surveillance and interception of communications in accordance with the law. We do not comment on operational matters.

Hon Margaret NG

Q6 What are the restrictions in the application of section 8 of the Societies Ordinance? [According to section 8, the grounds for prohibiting a

society to operate does not lie in what the society has actually done, but the assessment of the Societies Officer and the Secretary for Security that it will be in the interest of public safety, public order, etc. to prohibit its operation.]

- A6 The Societies Officer may recommend to the Secretary for Security to make an order prohibiting the operation or continued operation of the society or the branch –
- (a) if he reasonably believes that the prohibition of the operation or continued operation of such society or branch is necessary in the interests of –
 - (i) national security;
 - (ii) public safety;
 - (iii) public order (*ordre public*); or
 - (iv) the protection of the rights and freedoms of others; or
 - (b) if the society or the branch is a political body that has a connection with a foreign political organization or a political organization of Taiwan within the meaning of the Societies Ordinance.

As already explained at the meeting, the Ordinance clearly states that (a)(ii) to (a)(iv) are interpreted in the same way as in the International Covenant on Civil and Political Rights as applied to Hong Kong. (a)(i) is defined as “the safeguarding of the territorial integrity and the independence of the People’s Republic of China”. The expressions in (b) are also specifically defined in section 2 of the Ordinance.

Members should note that the decision of the Secretary for Security is not final. The Ordinance provides for an appeal mechanism. An aggrieved party may also consider applying for a judicial review where appropriate.

- Q7 Under section 8, public order is one of the four grounds on which the Secretary for Security may issue an order to prohibit the operation of a society. This criterion may be applied very broadly according to the

Court of Final Appeal's ruling on the case related to the national and regional flags in 1997. How can the application of this criterion be narrowed down?

- A7 The Court of Final Appeal in the Flag case, viz *HKSAR v Ng Kung Siu & another*, [1999] 3 HKLRD, p.907, acknowledged that the concept of public order (*ordre public*) is an imprecise and elusive one, certainly wider than the common law notion of law and order, and includes what is necessary for the protection of the general welfare or for the interests of the community.

The application of this concept as a basis for restricting some specified rights and freedoms is subject to the court's scrutiny, as in the Flag case, where the court considers the matter in the light of the needs and the values of the community.

As mentioned in A6, any society aggrieved by the Secretary for Security's decision to prohibit its operation on the ground of public order (*ordre public*) may appeal under the Ordinance or apply for a judicial review. Effective checks and balances are already in place and may be relied on to ensure the application of the concept in each individual case is justified.

Hon Andrew WONG

- Q8 If any society is aggrieved by the decision of the Chief Executive in Council made under section 8(7) of the Societies Ordinance, can it appeal to the Court?

- A8 As mentioned in A6, any aggrieved society may consider applying for a judicial review.

Security Bureau
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