



香港記者協會
HONG KONG JOURNALISTS ASSOCIATION

Hon Dr Margaret Ng
Chairman
Administration of Justice and Legal Services Panel
Legislative Council
Rm 116, New Henry House,
10 Ice House Street,
Hong Kong

Date: July 14, 2009

Dear Dr. Ng,

1. It has come to the notice of the Hong Kong Journalists Association that on July 15 the Administration of Justice and Legal Services Panel will discuss the issue of an alleged assault on journalists who were photographing family members of Robert Mugabe, an issue that directly impinges upon press freedom. We would, therefore, like to take the liberty of sharing our views on this issue with you and members of the panel as it jeopardizes press freedom, and likely to lead to compromising the people's right to know. We would much appreciate it if our views could be circulated to members of the panel even at this late notice.
2. On the face of it, the alleged assault by the wife of President Robert Mugabe, Grace Mugabe, and by the bodyguards of their daughter, Bona Mugabe, amount to an attack on journalists for no more than the normal performance of their job. We are, therefore, deeply concerned about the silence on the part of the Administration on whether they have considered the impact of these two incidents upon Hong Kong's reputation for its rule of law and freedom of expression, and a city where journalists can perform their public duty without fear of threats and violence.
3. On January 15, during what appeared to be a shopping visit in Hong Kong, the wife of President Robert Mugabe, Grace Mugabe, was alleged to have punched a photojournalist who was on a routine assignment. He and his colleague reported a case of assault to the police on January 17, a day after Mrs Mugabe's departure.
4. The HKJA condemned this assault on journalists who were performing legitimate journalistic duties. Although the Secretary for Justice decided not to take further action because of Grace Mugabe's entitlement of diplomatic immunity, it is fully entitled to make its position known to the public on the assault of press freedom. This silence of the Secretary for Justice on this has dealt another blow to press freedom and goes against the pledge of a government commitment to ensuring Hong Kong is a place where free expression and work of journalists are respected.
5. The HKJA would like to urge the panel to seek the government's view on the assault on journalists performing their legitimate duties. We also would like to ask the panel to urge the

香港灣仔駱克道348-350號滙豐商業大廈15樓A室
Flat A, 15/F., Henta Commercial Building,
348-350 Lockhart Road, Wanchai, Hong Kong.
電話 Tel: (852) 2591 0692
傳真 Fax: (862) 2572 7329
電郵 E-mail: hkja@hkja.org.hk
網址 Website: <http://www.hkja.org.hk>

本會為英聯邦記者協會、國際記者協會、國際實
踐自由交流組織及世界新聞自由委員會成員。
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government not to allow Grace Mugabe to return to Hong Kong in the future given her explicitly uncivilized behaviour.

6. While the first case may be protected by diplomatic immunity, the second case is not. On February 13, it was alleged that one male and one female bodyguard protecting Bona Mugabe, the daughter, assaulted two journalists who had entered a private residential estate to investigate the Mugabe property.
7. The HKJA was outraged by the assault. Since Bona Mugabe was within the four walls of house when the assault took place it was absolutely unreasonable and unacceptable for the bodyguards to assault the photojournalists waiting outside. We, therefore, reject the government's decision not to prosecute the bodyguards who, allegedly, were "genuinely apprehensive for the safety of Miss Mugabe". How could this be when she was safe indoors?
8. If the government's rationale is accepted in future the bodyguards of other public figures may feel immune against sanctions for using force against journalists reporting on their subjects – so long as they can plead that they are "genuinely concerned" for the safety of their charges. Such a reckless statement by a government official is tantamount to issuing a blank cheque on "political immunity" to those with power, which totally goes against the grain of equality before law. Not least, this silently condones the use of force against journalists and may embolden other public figures, and/or their bodyguards to use force against journalists trying to uncover truths they would rather contain.
9. Moreover, while Miss Mugabe enjoys diplomatic immunity, her bodyguards did not. We cannot accept the decision not to prosecute the bodyguards.
10. The Department of Justice's paper to be discussed in this meeting states: "It is established policy in Hong Kong not give detailed reasons for prosecution decisions. This policy has been formulated to protect the interests of those suspected of crime but not charged with any offence."
11. The paper goes on: "Once it is decided not to prosecute a suspect, it is important not to parade in public all the evidence that would have been made available if a prosecution had been instituted. The rights to privacy have to be respected, and the rights of the suspect must not be sacrificed in a public debate over issues that will not be tested at court."
12. The HKJA agrees wholeheartedly with the principle stated above. The courts should not be bypassed and have evidence paraded in the court of public opinion instead. It is for this very reason, that the HKJA regrets the decision against prosecution. The parading of evidence before lawmakers and the public, instead of before a judge, is unfair both to the journalists who cannot have their case of assault resolved, and to those who have been accused.
13. It is therefore baffling that the Department of Justice should express hesitation in parading the evidence on the basis of the case not being heard by a judge – a situation the Department of Justice itself created.

香港灣仔發克道348-350號恒發商業大廈15樓A室
Flat A, 15/F, Henfa Commercial Building,
348-350 Lockhart Road, Wanchai, Hong Kong.
電話 Tel: (852) 2591 0692
傳真 Fax: (852) 2572 7329
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14. If the Secretary for Justice, Wong Yan-lung, takes the case seriously, he can ask for the extradition of the two bodyguards who fled the city after the assault. At the very least, they should not be allowed to return to Hong Kong or risk prosecution.
15. In particular, these bodyguards were illegal workers in Hong Kong who were not holding work permits at the time. Regrettably, the police did not take any action whatsoever against the bodyguards. Again, it sent a totally wrong signal to those in power of hiring illegal workers.
16. Taken as a whole, the fact that this government has taken no action to initiate legal proceedings casts doubt over its sincerity to safeguard one of Hong Kong's most cherished freedoms – the freedom of expression. The government does not appear to be concerned with the detrimental effect this may have on frontline journalists.
17. Furthermore, the fact that the alleged perpetrators are associated with President Mugabe, a known diplomatic ally of the Beijing authorities, gives the stark impression that free expression and the protection of journalists exercising those rights can be set aside for political reasons.
18. We strongly urge the panel and the government to join the HKJA in condemning any use of force against journalists, and speak out in defense of a free press in Hong Kong.

Executive Committee

Hong Kong Journalists Association

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