



香 港 記 者 協 會
HONG KONG JOURNALISTS ASSOCIATION

Mr James To,
Chairman,
Bills Committee on the United Nations (Anti-Terrorism Measures)
(Amendment) Bill 2003
8 Jackson Road
Central

31st Oct, 2003

Dear Mr To,

While the Hong Kong Journalists Association recognises the need for the government to take action against terrorist threats in Hong Kong, we are disturbed to learn about the proposed measures put forward in Part 4A on powers of investigation, and in particular the requirement to furnish information or produce material for an investigation. We believe these measures go beyond what is required by the United Nations to prevent terrorist threats.

The HKJA recognizes that the United Nations (Anti Terrorism Measures) Ordinance does protect journalistic material in section 2(7)(b), by making it clear that Part XII of the Interpretation and General Clauses Ordinance applies to search and seizure operations involving journalistic material.

However, we remain concerned that the new Part 4A may circumvent - through sections 12A and 12B - the provisions contained in the Interpretation and General Clauses Ordinance, insofar as they allow an authorised officer to seek a court order, through an *ex parte* application, allowing the authorities to interview a journalist about information he or she may have obtained on terrorist activities and to produce any relevant material on such activities.

This is of particular concern to journalists given that they may be forced to disclose sources of information or information which may be used to reveal sources, or alternatively may be jailed for up to one year if they

refuse to comply with a court order. Such a provision would put tremendous pressure on a journalist, who has an obligation to protect confidential sources of information.

The threat of being summoned by the authorised officer to disclose confidential sources of information will discourage journalists from reporting on terrorist's activities. The lack of this kind of information may not be in the interest of the public. Indeed, a journalist is put in an even more difficult position by the provision in section 12A(11) that a person is not excused from furnishing information or producing material "on the ground that to do so would breach an obligation as to secrecy or another restriction upon the disclosure of information or material imposed by statute or otherwise."

Indeed, it would appear that the provisions in Part 4A are in some ways more onerous than those contained in schedule 2 to the original bill, which were not included in the final version of the ordinance.

The HKJA would strongly urge the bills committee to consider whether there is a way to protect journalists from such onerous provisions, preferably through the granting of an exemption for journalists carrying out legitimate journalistic activities, or alternatively through the imposition of proper safeguards, for example by tightening up the provisions allowing the authorities to seek information or material from a journalist and providing for an inter partes court hearing and appeal mechanisms.

Yours sincerely,

A handwritten signature in black ink, appearing to be '張平玲' (Cheung Ping-ling) in Chinese characters.

Cheung Ping-ling
CHAIRPERSON