

Hong Kong Bar Association

Press Statement on Certain Protesters Calling for Resignation of the Chief Justice

1. A group of protesters gathered outside the Court of Final Appeal yesterday and, as reported in the South China Morning Post today, demanded the resignation of the Chief Justice. They said that judges have been too lenient in granting bail to those charged over the protests and had failed to hand down deterrent sentences where cases have resulted in convictions.
2. The Hong Kong Bar Association deplores any attack on the Judiciary or any member of the Judiciary. The Judiciary is a core institution under the Basic Law. It protects and upholds the Rule of Law in Hong Kong. Cases before the Court are dealt with according to established legal principles following fair and transparent procedures. Appeals and reviews are available to defendants and prosecutors who perceive that a judge or magistrate has made an error.
3. Members of the public have the right and freedom to discuss and to express their opinion on judicial decisions and rulings through rational discourse and debate. There is, however, no justification for exerting pressure on the Judiciary to decide cases one way or another, which may, depending on the circumstances, constitute interference with judicial proceedings and contempt of court.
4. Insofar as the protesters complained about defendants being bailed and not locked up when they appeared before magistrates after arrest, magistrates follow the law.
5. The law about bail is in the Criminal Procedure Ordinance. It creates a right to bail that can only be displaced if conditions unique to the defendant or the offence are present such as would suggest that the defendant would not turn up for trial.
6. Judges and magistrates do not, therefore, have a general discretion to refuse bail. When they grant bail, it is because none of the conditions entitling a refusal of bail are present. The bail decision-making process is structured, fair and is blind to extraneous considerations like politics, nationality, sex, or race.

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