

司法機構要有自我改革的勇氣

The Judiciary must have the courage to reform itself

中英社評

被指「立場偏頗、判決不公」的裁判官何俊堯，再次以「警方證供不可靠」為由，判涉黑暴被告無罪釋放。「警方抓人、法官放人」的一幕又上演，這是香港司法的恥辱，也再次印證了「烈顯倫之問」：香港法院助長街頭混亂！

去年11月2日，中環一帶有黑衣人聚集，警方驅散時拘捕多人，包括一名17歲中學生，他被搜出藏有雷射筆及噴漆，被控有意圖損壞財產及在公眾地方有攻擊性武器兩罪。案件昨日由備受爭議的何俊堯主審。何官指雷射筆本質上不是攻擊性武器，噴漆只是平常之物，警方未能舉證被告有使用該工具的不法意圖。何俊堯更質疑，現場有不少人手持長型硬物，為何警方只鎖定被告？他認定警方證供不可靠，裁決被告的兩項控罪不成立。

誠然，雷射筆及噴漆都是平常之物，可作非法及合法之用，但在當時的暴亂現場，作暴徒打扮的被告除了用雷射筆照射警方眼睛及用噴漆毀壞公私財物，還會作出其他的用途嗎？何俊堯不可能不知道這些基本道理，但他在裁決時彷彿忘記法官身份、變身被告的「辯護律師」。

按照此案判決的邏輯，警方一定要等到殺人犯拿刀將人砍死、強姦犯作案成功，才能將之拘捕，否則無法舉證其有犯罪意圖？今後，法律上還會有「防範及制止犯罪」一說嗎？這令人聯想起近日有匿名信舉報在7月3日司法機構的講座上，有法官就黑暴案提供指南：「除非有十分穩妥證據定罪，否則可以疑點利益歸被告將其脫罪。」而所謂「疑點利益」，如今都成了無罪釋放的理由。

何俊堯作此判決並不令人意外。他過去處理的涉黑暴案，被告要麼無罪釋放，要麼輕判了事。在一些人眼中，警方似乎都是「不誠實的證人」、「以一個大話圓另一個大話」，而被告則是「未來的社會棟樑」、「要留有用之身」。無怪乎有人認為，有何官在，「手足」大可放心！

司法系統常標榜「法律面前人人平等」，可惜，法官內部也未必平等。法官郭偉健被指同情「藍絲被告」後，立即被勒令停止處理相關案件，而何俊堯一再放生黑暴被告，不僅可以繼續處理相關案件，更獲得加薪晉級。有報道指，何官將上調高等法院，出任「刑事案件排期官」，月入增加六至八萬元，令人側目。

但儘管司法判決引發爭議不斷，在「司法獨立」之下，外界說不得也碰不得，否則隨時被扣上「干預司法」的大帽子。不受公眾監察、有如「獨立王國」的司法機構，已在破壞公眾的信心。烈顯倫批評本港司法機構百孔千瘡，自賦權力，絕對不是無的放矢。

「吾恐季孫之憂，不在顛隕，而在蕭牆之內也。」對法治威脅最大的不是外在因素，而在司法機構本身。司法若不能與時俱進，自我革新，遲早有被改革的一天。

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[Eastern Court] Magistrate Stanley Ho Chun-yiu, who is criticised for his "biased stand and unfair judgements", has once again ***acquitted*** an accused black-clad rioter ***on the grounds that*** "the arresting police officer is an unreliable witness". The play of "a judge letting a suspect arrested by the police go away unpunished" is put on the stage again. This is a shame for Hong Kong's judiciary, and once again justifies "[former permanent judge of the Court of Final Appeal] Henry Litton's query": "Hong Kong's courts have helped to create the social environment leading to the mayhem wrought on the streets!"

On November 2 of last year a number of black-clad demonstrators gathered in Central. In a dispersal operation, the police arrested some of them including a 17-year-old high school student. He was found possessing a laser pointer and spray paint, and charged with two accounts of possessing an article with intent to damage property and possessing an offensive weapon in a public place. The trial ***was presided over*** by Stanley Ho Chun-yiu yesterday. Magistrate Ho said that a laser pointer in nature was not an offensive weapon and spray paint simply some ordinary item, and that the police failed to prove the defendant had any unlawful intent to use them. Stanley Ho Chun-yiu further cast doubt on the officer's decision "to prioritise Wong's arrest while there were protesters wielding long, hard objects. He thus ruled the police officer's testimony as unreliable and cleared the defendant of the two charges.

It is true that both laser pointers and spray paint are ordinary things, which can be used lawfully and unlawfully. But at the scene of rioting concerned, for what other purposes would the accused, clad like a rioter, use them apart from using the laser pointer to shine a laser light into the eyes of police officers and using the spray paint to damage public and private properties? It is impossible that Stanley Ho Chu-yiu has no such rudimentary knowledge. But in making his ruling, he seems to have forgotten his role as a judge and transformed himself into the defendant's "defence counsel".

Following the logic of his ruling in this case, surely the police must wait to arrest a murderer until he has successfully chopped someone to death with a knife or a rapist until he has finished the

raping, otherwise there is no way to prove their criminal intents. Hereafter will the saying of legally "preventing and stopping crime" still be held valid? One cannot help but associate this with a recently reported anonymous letter claiming that on a seminar organised by the Hong Kong Judicial Institute of the Judiciary on July 3, a certain judge provided a guideline that "the accused [rioters] should be given the benefit of the doubt and acquitted unless there is very strong evidence to convict them". The so-called "benefit of the doubt" now become the excuse to set all the accused free.

It is not surprising that Stanley Ho Chun-yiu would pass down such a verdict. In cases involving black-clad rioters he has handled prior to this one, the accused was either acquitted or punished leniently. In certain people's eyes, police officers all seem to be "unreliable witnesses" and "telling one lie to cover up another", while the accused [rioters] are the "future pillars of society" who "must be saved to preserve their potential usefulness". No wonder some people think that the "hands and feet (comrades in arms)" [in riots] can ***put their minds at rest*** with Magistrate Ho handling their cases.

The judicial system often gives favourable publicity to "everyone being equal before the law". It is too bad that inside the system, even judges are not treated equally. Judge Kwok Wai-kin was immediately ordered to stop presiding over similar trials after being complained about showing his sympathy with a "blue-ribbon" defendant. However, Stanley Ho Chun-yiu, who has set free accused black-clad rioters one after another, can not only continue to handle similar cases but also receive pay raise and get promoted. As reported, he will be promoted as a temporary deputy registrar of the High Court, and receive \$60,000 to \$80,000 more in his monthly pay. This ***raises quite a few eyebrows.***

Nevertheless, while court rulings lead to endless controversy, outsiders cannot say or do anything with the banner of "judicial independence" over their heads, otherwise they would be slammed for "interfering with the judiciary". The Judiciary, behaving as if it were an "independent kingdom" not subject to public supervision, is damaging public confidence. Henry Litton's criticism, that

the Judiciary is afflicted with ills and empowering itself, is by no means aimless.

"I'm afraid that for Ji Kangzi, the real threat does not come from Zhuanyu, but lies within the walls of his own palace. "The greatest threat to the rule of law does not come from any outside factors but lies within the Judiciary itself. If the Judiciary cannot progress with the times and reform itself, it will be reformed sooner or later. 10 September 2020

WORDS AND USAGE

• **Acquit** (verb) – To decide officially in a law court that someone is not guilty of a particular crime. (宣判…無罪)

Examples:

1. Mr Ling was acquitted of disorderly behaviour by magistrates.
2. Five months ago he was acquitted on a shoplifting charge.

• **On the grounds that** (idiom) – For the reason that; because. (以…為理由，理由是…)

Examples:

1. Many critics have objected to the proposal on the grounds that it would be too costly.
2. He refused to answer on the grounds that the question violated his rights to privacy.

• **Preside over sth** (phrasal verb) – To be in a position of authority at a time when important things are happening. (掌管；主持（尤指正式會議或審判）)

Examples:

1. He was appointed to preside over the murder trial.
2. I would preside over the meeting in a just manner.

• **Put/set someone's mind at rest** (idiom) – To stop someone from worrying about something. (讓某人放心、安心)

Examples:

1. It may be advisable to have a blood test to put your mind at rest.
2. I wish I could put their minds at rest.

• **Raise (some/a few) eyebrows** (idiom) – If something that someone does raises eyebrows, it surprises, shocks, or offends people. (令人震驚，令人側目)

Examples:

1. The size of his salary has certainly raised eyebrows.
2. His outspoken comments raised a few eyebrows at the meeting.



續FUN英語 >>>

踏入新學期，希望同學收拾心情之餘，也可以把在暑假自學的知識有所發揮。

每年都有同學跟我說暑假在渾渾噩噩中度過，沒有什麼得着。又或是家中沒有閒錢給他們參加暑期班，自己要做暑期工賺零用錢，或賺錢交學費等。我們學習語文真的要透過上課才可以學到嗎？我認為透過每一天觀察周邊的人及事物都可以有所得着，譬如在茶餐廳吃一頓飯都可以學到不同的事情，有同學就是用一餐飯的時間為自己釋疑解惑。在新學期的第一集《續fun英語》，和大家分享這一個有趣的學習經歷。

茶餐廳一名食客問旁邊的外籍朋友："Will you come to my house for karaoke this weekend?" 外籍朋友回應："Oh I would love to visit your home."

究竟"Home"跟"House"的分別是什麼？

翻查網上資料很容易便會知道其分別。House是指一般永久性的樓宇結構，可以是有人或沒有人居住的。Home是指你居住的地方，也可以是一個給予你安全感、舒適感的國家或區域，有家的感覺。這就是說：A house is made of bricks and beams; a home is made of hopes and dreams.

再舉一組例子：disinterested or uninterested。

基本上兩個字是有着不同的意思，很多人也以為兩個字可以交替使用。

Disinterested本身的用法比較客觀，可用作表達不偏不倚沒有私心的想法：It is important for a judge to be **disinterested** in the outcome of a competition.

但uninterested純粹表達個人對某人或物的態度：Some students wanted to extend summer holidays and are rather **uninterested** in studying anything.

Well……有時候兩者交替使用，都不一定是錯的，但我們要看實際應用的context。

If two wrongs don't make it right, try three.

Some students seemed disinterested/uninterested in what was happening in the world.

在這個句式中，Disinterested及Uninterested也可以應用；這裏是指一些學生對世界所發生的事情覺得沉悶或是沒有興趣，也可以泛指一個中立或漠不關心的心態。

除了同義詞（Thesauruses）英語當中這一些Confusing Words實在多的是，有一些是同音字（homophones）。例如：

- Be / Bee
- Cellar / Seller
- Die / Dye
- Farther / Father
- Genes / Jeans
- Hear / Here

為達到基本準確度，proofreading很重要，有把關用途，在交功課之前一定要檢查清楚，寫作長篇文章更加要重複再看三至四次，正

所謂haste makes waste, it takes time to do all things properly, 快快閃速交功課只會錯漏百出，希望讀者在新的學期養成良好proofreading習慣，不單止檢查spelling，上下文的連貫性(context and coherence)也至為重要。People forget how fast you did a job — but they remember how well you did it.

Miss Carol

大專院校語文講師、
企業培訓講師及國際英文公開試主考官
Email: carolc.english@gmail.com

