

THE Public Order Ordinance - Submission from Elsie TU

Mr. Chairman,

Thank you for allowing me to appear before this panel. I live among grassroots residents, and also meet people from educational and other fields. I often travel by taxi and talk to taxi-drivers. Most of those I have questioned about the Public Order Ordinance either know nothing about it, or have no interest in demonstrations. What they nearly all have in common is their wish for a peaceful society, and an interest in bread-and-butter issues.

For the sake of any younger people here I would like to mention the background of our public order ordinances, because some were enacted before they were born. Some of the ordinances before 1995 were very draconian indeed. The worst was the Detention and Deportation Ordinance, by which one could be arrested and taken to court on any charge a policeman chose to make, without legal representation, and could be detained for an indefinite period in prison. I dealt with about twenty such cases of men who had served long prison sentences because they had reported government corruption or malpractices. That draconian law was not abolished - can you believe it? - until June 1995. The Legislative Council was not even informed, let alone consulted.

Even up to the 1980s, no one would dare to stage a demonstration because of the draconian laws. In 1972 I was threatened with the deregistration of my school because I allowed Szeto Wah to use our hall for a meeting of the Teachers' Union. I did not realise I had broken the law. I apologised to the Government because I have always held the principle that I may disagree with a law and seek

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had broken the law. I apologised, because I have always held the principle that I may disagree with a law and seek to change it, but I would not wilfully break it. I disapprove of those Legislative Councillors who encourage lawlessness by breaking the law themselves.

from a Police Station  
In 1980, I was asked to bail out/about seventy people who had been arrested while travelling on a bus to deliver an appeal to Government House. I had already warned them of the consequences. Among them were children as young as 7 years old, who did not understand when they were charged with unlawful assembly. The Police said they were merely acting under orders, when I protested about the children. Luckily, the next day, the Magistrate blamed the police and told the children to leave his court. I do not remember any of the older members here today making any objection to those arrests.

I took part in the debate on the Amendments to the Public Order Ordinance in 1995, which greatly improved the rights of demonstrators, and placed the Police Commissioner under obligation to act in accordance with the ICCPR, Article 21. I do not need to detail those changes. However, some members tried to introduce other amendments that would have made the police powerless to stop a speaker making inflammatory speeches over a loud-hailer. By a large majority, the Legislative Council in 1995 agreed that a very senior policeman would have the right to remove a loud-hailer if it was being used to incite others, and could lead to violence of the person. The minority who objected were more or less the same people who appear to be encouraging young people to break the law now, by breaking it themselves.

At this point may I remind you Chairman and members, of an unnotified demonstration that took place in Nathan Road a few years ago. By the time the police reached the scene, shop windows

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had been broken and shops looted. Another example of an unnotified demonstration, this time by persons supported in their cause by politically-motivated elements, took place this year in Immigration Tower, with very tragic results, including deaths and many injuries.

If the Police are not given fair notice to allow them to put in place measures for the safety of the public, and traffic arrangements, no one can guarantee that the situation will not develop into mass hysteria, especially when demonstrators burn flags and car tyres, frightening innocent passers-by and driving away tourists.

I was a member of the Provisional Legco that passed the amendment of 1997, and it is utterly untrue to say that it reverted to the the pre-1995 situation. In fact, there was scarcely any change at all. It <sup>merely</sup> required the Commissioner of Police to give notice of no objection, without reducing his obligations under the ICCPR, and it emphasised the rights of the public as required in all other jurisdictions, namely, that "conformity with the law is necessary in the interests of national security, public safety, public order... and the protection of the rights and freedoms of others". These conditions comply both with the ICCPR Article 21, and the Basic Law, Article 39. Some demonstrators are so selfish that they imagine only their rights are important, that they can disturb others attending meetings or travelling to work or home, or enter any building they may wish to cause disturbance to others. I sometimes wonder if some of the demonstrators are politically motivated, or whether they have simply failed to read the relevant laws.

Mr. Chairman, it is my personal opinion that before considering any changes to the Public Order Ordinance, we should seek public opinion and debate legislation on Article 23 of the Basic Law, which deals with some matters related to public order.

That is my submission. Thank you Mr. Chairman.