



ASIAN HUMAN RIGHTS COMMISSION

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I would, first of all, like to thank the panel for giving the Asian Human Rights Commission this opportunity to make this oral submission about the Public Order Ordinance in Hong Kong.

The basic philosophic thrust underlying our written submission earlier and our oral submission today is that freedom of expression is a fundamental right of all people and the police in a free society should not be put in the position of being the judge over people's rights. The Public Order Ordinance in its present form, however, unfortunately places the police in Hong Kong in such a position of power as a notice of no objection must be received from the police before a public demonstration or rally can be held. Regardless of how objective and professional the police force is, it should never be entrusted with the role of judge over deciding the exercise of people's rights. What opinions people wish to express and how they wish to express them should never be determined by the police. Moreover, the crafting of laws should never be motivated by fear of abuse. Rather, it should be motivated by the belief that people will do the right thing. In the past, Hong Kong's people have demonstrated time and time again that they are a mature and responsible civil society as violence is not a feature of public protest during public processions and rallies in Hong Kong. Indeed, Hong Kong's people have shown themselves to be honourable people who wish to declare by honourable means what they think and feel on issues that affect them.

Freedom of expression is based on the need of a democratic society to promote the individual self-fulfilment of its members, the attainment of truth, and participation in decision-making. The role of a modern government is to ensure that all voices within the community are heard and respected. This role is especially critical in ensuring that the opinions of a minority are encouraged and permitted to be expressed without real or perceived threats of intimidation by the government. In order for this openness to be realised, the government must facilitate an environment that is conducive for the free expression of views.

It is for these reasons that the Asian Human Rights Commission urges the Hong Kong SAR government and the Legislative Council to amend the present Public Order Ordinance based on the following three recommendations:

- (1) The period for notifying the police prior to a public demonstration or rally should be reduced to 24 hours before the event;

(2) A notice of no objection from the police should no longer be required before holding a public demonstration or rally; and

(3) The present criminal penalties for failure to notify the police of a demonstration or rally—five years imprisonment—are too harsh for the offence and should be decriminalised.

In closing, we once again wish to underline our basic position: it is not the role of the police to be the arbiter of people's rights in a free society.

In Asia, freedom of expression is severely violated in many countries and regimes. We do not want to see the Hong Kong SAR become one of them.

Thank you again for the opportunity to express our views to you.