

CB2/BC/7/01
Criminal

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BY FAX (28778024) AND BY POST

5 May 2003

Mrs. Sharon Tong
Clerk to Bills Committee
Legislative Council,
Legislative Council Building,
8 Jackson Road,
Central, Hong Kong.

Dear Mrs. Tong,

PREVENTION OF CHILD PORNOGRAPHY BILL

The Society's Criminal Law & Procedure Committee has previously been consulted and made submissions on the Prevention of Child Pornography Bill on 15 May 2002.

The Committee understands that the Bills Committee has been considering the Bill and wishes to stress to the Bills Committee two of its major concerns.

The first objection to the Bill relates to the proposal to make "*simple possession*" of visual material an offence on the premises that it may inspire certain thoughts in a person reading or seeing it. A basic premise of our legal system is that the person is free to have thoughts: criminal law only intervenes when a person attempts to put anti-social thoughts into action. It would be short step from banning possession of this type of material to banning possession of, for instance, political material.

The second objection is with regard to the proposals to extend the law relating to substantive offences to have extra-territorial effect – i.e. to try to impose our standards of behaviour in other countries. This also raises the matter of enforcement, and how the Hong Kong Government could hope to police the activities of Hong Kong permanent residents when overseas. There is no provision, for instance, as to how long after a person departs from Hong Kong would such activities constitute offences, or any limitation on the period following his departure that this Hong Kong law would continue to apply to him/her.

I shall be grateful if you can draw the above concerns to the attention of the Bills Committee.

Yours sincerely,

Christine W.S. Chu
Assistant Director of Practitioners Affairs

Encl.

c.c.: Andrew Lam, the Chairman
Melville Boase
Michael Jackson
Christopher Knight