



**Responses to the Proposals to Implement Article 23 of the Basic Law  
Submitted by the Hong Kong Library Association 20 December 2002**

Established in 1958, the Hong Kong Library Association (HKLA) is a professional association for librarians in Hong Kong. Our members are comprised of librarians from academic libraries, public libraries, school libraries and special libraries. In 2002, we have a membership register of nearly 600 members.

The HKLA is a member of the International Federation of Library Associations (IFLA). A core value of the IFLA is that people, communities and organizations need universal and equitable access to information (IFLA Statutes Article 6 Clause B). Furthermore, as stipulated in our Code of Ethics, the HKLA believes in the freedom of enquiry, thought and expression and in the free, uncensored flow of information. We uphold the fundamental principle that the primary duty of librarians is to facilitate access to information.

Hong Kong has been doing an excellent job in meeting the above goal of providing a free flow of information. For instance, the Hong Kong Public Libraries (HKPL), with a network of 69 central, branch and mobile libraries, provide a collection of more than 9,000,000 items; and the 8 University Grants Committee (UGC) funded academic libraries altogether provide a collection of 7,700,000 items. Moreover, there are over a thousand school and special libraries. Our society has greatly benefited from these vast and comprehensive collections that record the breadth of human knowledge.

Throughout history, people have disagreed on the answers to the critical issues facing human kind and these differences are often reflected in, among other mediums, the written word and many of these appear in the form of books. It is the duty of libraries to reflect these differences of opinion by acquiring, organizing, and disseminating the full spectrum of materials published on these issues. Scholars and researchers not only value but indeed demand to have such diversity in learning resources accessible to them. Works of different schools of thought can always co-exist peacefully in libraries. Librarians never use their personal taste or belief to prejudice and reject materials on the grounds of political, religious or racial reasons. To the contrary, as noted in the Library Bill of Rights of a major national library association, libraries should challenge censorship in the fulfillment of our responsibility to provide information.

The Proposals to Implement Article 23 pose a serious challenge to the above values and beliefs. Should the proposals be made into law, it will place tremendous pressure on librarians because we will be required to exercise personal judgment as to whether an item is seditious or not when we acquire, process or circulate the material. To collect members' views, the HKLA conducted a survey by email from 22 October to 11 November 2002 on the following questions:

Q1. Do you think that the freedom of information and freedom of expression will be hampered if the proposals of the consultation document are implemented?

Yes 97%

No 3%

No opinion 0%

Q2. Do you think that librarians' essential duties, i.e. acquiring, organizing, circulating and preserving information and human knowledge, will be hampered if the proposals of the consultation document are implemented?

Yes 97%

No 3%

No opinion 0%

Q3. Do you think that *academic research* and *news reporting* (paragraph 4.17) are adequate reasonable excuses for making a defense?

Yes 17%

No 69%

No opinion 14%

Q4. Do you think that libraries and librarians should be exempted from any possible charge of offence if they are carrying out their regular librarians' duties only?

Yes 94%

No 3%

No opinion 3%

Q5. Do you agree that an emergency entry, search and seizure power be provided to the police for investigating some Article 23 offences (paragraph 8.5)?

Yes 5%

No 81%

No opinion 14%

Based upon the results of this survey, it is clear that librarians are concerned with the dangers that might accompany the implementation of Article 23 as it has been currently explained. Many librarians also fear that they will not be protected from prosecution by the “academic research” excuse. To avoid the risk of being prosecuted, we fear that the unwanted atmosphere of self-censorship will emerge. As a result, those works of political dissenters, political bodies and religious organizations banned from China, those works that promote the separation of Taiwan, Tibet and other areas from China, those works that criticize the party leaders, those works classified as confidential materials, even those theoretical works on using drastic approaches to replace the existing government and other works considered dissenting will eventually be removed from the book shelves. While the words in books, once printed, do not change, the ways in which the concepts represented by these words do change. A book that was not considered seditious at one point in time, may become seditious at another. Librarians cannot be given the burden of identifying which books might pose a problem in future years. On the other hand, books that might today seem seditious, as challenging the right of the government to rule, might in the future become a treasured classic.

In many developed countries, there are library laws to balance the undesirable effects of subversion laws. However, in the case of Hong Kong, we do not have such equivalent sets of legal protection for libraries and librarians. To relieve the pressure that would be placed on librarians, we request that,

1. *library activities* in specific, and *education and learning* in general, should become reasonable excuses for defense against prosecution in dealing with seditious materials;
2. librarians should be exempt from prosecution if they are collecting, organizing and disseminating materials, whether seditious or not, during their regular course of work;
3. a clear and restrictive definition of seditious materials be provided and that clarification of the mechanism that will determine a work seditious be articulated;
4. book circulation records must always be protected; and that libraries, under no circumstances, be required to provide such records to the authorities;
5. the search power of the police be limited; unless with the immediate risk of violence, otherwise, a search warrant must be applied through the magistracy.

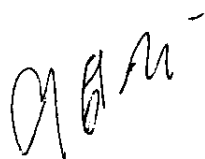
The HKLA believes that by inserting the above clauses, the librarians’ and, more importantly, our society’s, interests will be safeguarded. Given the debatable nature of the present proposals of implementing Article 23, we also urge that a white-paper bill be issued to ensure that both the public and the professional community will have sufficient input

during the legislative process.

The Hong Kong Library Association would welcome the opportunity to discuss this issue and to explain our concerns further with the Security Bureau and other government authorities.

We look forward to a favourable reply.

With regards,

A handwritten signature in black ink, appearing to read 'Tommy Yeung', with a horizontal line above the final 'g'.

Tommy Yeung  
President  
Hong Kong Library Association

c.c. Panel on Security, the Legislative Council of the Hong Kong Special Administrative Region