

LC Paper No. CB(2) 271/02-03(10)

**Hong Kong Christian Institute's Submission on
'Proposals to Implement Article 23 of the Basic Law'
October 31, 2002**

The Hong Kong Christian Institute (HKCI) is a non-profit Christian organization whose objective is to gather concerned Christians to be active participants in civil society and to make a continuing contribution to the community and the ecumenical movement.

Regarding the consultation paper of the Hong Kong Special Administrative Region (HKSAR) government entitled "Proposals to Implement Article 23 of the Basic Law," HKCI wants to express our concerns about the contents of the document as well as the attitude of government officials in responding to questions and the anxieties of the public. We also want to inform the Legislative Council (Legco) about our position on the Article 23 consultation paper as well.

Our Worries

Since the HKSAR government released the consultation document, many questions and concerns have been raised by legal professionals, journalists, members of the religious community, human rights groups, academics and others in Hong Kong. One of the major concerns is that the contents of the consultation document are so vague and broad that they can easily be abused by the government. The criminal offences in the consultation paper are referred to with an ambiguity that could allow the government to use the law to deny, rather than protect, the rights of Hong Kong's people. For instance, regarding the theft of state secrets, how is an "enemy" and a "purpose prejudicial to the safety or interests of the PRC [People's Republic of China] or the HKSAR" to be defined?

Second, through enacting such legislation, the HKSAR government will introduce into Hong Kong the mainland practice of using "national security" as a pretext to silence different opinions, suppress the development of civil society and deprive Hong Kong's people of their basic human rights.

Third, Article 23 legislation will criminalise free speech. Organisations representing journalists have expressed their deep concern about this threat to their ability to carry out their responsibilities as journalists, especially regarding the

offences of sedition and the theft of state secrets. We worry that, if the proposal becomes law, an indirect form of censorship will be imposed on the media which will damage freedom of speech and expression in the community.

Fourth, we also worry that under the section of the consultation document relating to foreign political organisations an organisation can be banned if "the organisation is affiliated with a mainland organisation which has been proscribed in the mainland by the central authorities in accordance with national law on the ground that it endangers national security." This law thereby absolves the HKSAR government from having either any responsibility or authority over such matters because under this proposal the definition of "national security" in Hong Kong will be determined in Beijing. Currently, Falun Gong and some unregistered Christian communities are banned in mainland China under the "evil cult" law. However, if the mainland authorities also ban Falun Gong and the unregistered Christian communities under national security laws, then they would also be banned in Hong Kong. In this case, if local Christian organisations, such as HKCI, express support for the religious freedom of Falun Gong and our Christian brothers and sisters, will we then be considered an "affiliated group" with a banned organisation on the mainland?

Fifth, many people have already expressed their apprehensions surrounding the expansion of police power that is given in the consultation paper to enter premises to conduct a search and to seize materials merely for investigative purposes without any warrant issued by a court—worries that we too share as it can easily lead to an abuse of power by the police.

Lastly, as a Christian organisation, our ecumenical fellowship goes beyond national boundaries. In the past, we have been free to relate to any religious community without considering their political stance. However, if the proposed Article 23 legislation is passed, we might have to worry whether we can continue to maintain normal relationships with the churches in Taiwan, for instance.

Although government officials have tried to reassure the public that Falun Gong practitioners, supporters of Taiwan, etc., are not the targets of the proposed legislation and that their activities and organisations will not be affected, concerns and worries still continue to exist. The main reason is because Hong Kong does not have a fully functioning democratic system which can truly represent the interests of the people. Moreover, the one-party State on the mainland, whose national security the proposed legislation seeks to protect, does not have a good human rights record and has a

history of repressing its own people through the use of similarly vague and broad national security legislation as that being advocated by the HKSAR government.

From the above evidence, it is quite clear that if the HKSAR government insists on proceeding with the proposed legislation without taking seriously the fear and the objections of the people the law will only serve the purpose of creating tension within the community and will indicate an intention to silence dissenting voices in order to inhibit the participation of Hong Kong's people in decision-making and debate relating to policies that affect them, which will, of course, be to the advantage of the authorities. If this is not true, we hope that the HKSAR government will reconsider its approach in this instance and restore public confidence through a more thorough and sensible consultation process.

Our Position

As Christians, we believe that freedom of expression, particularly freedom of thought, belief, conscience and speech, are basic human rights. We cannot sacrifice these values in the name of protecting "national security." In particular, the freedom of religious belief of Christians flows from our freedom of conscience, which may cause us to hold views that oppose those of the government. Moreover, one of the most valuable aspects of Christian communities is the worldwide fellowship which springs from our belief that all members of humanity are part of God's family.

Following this principle, and the lack of a democratic and representational political system in Hong Kong, the Hong Kong Christian Institute cannot support the HKSAR government's "Proposals to Implement Article 23 of the Basic Law." Instead, we propose that the HKSAR government amend the existing draconian laws which violate people's human rights and freedom, such as the Public Order Ordinance. In this way, the community will have more confidence that the HKSAR government truly wants to create an open and accountable administration, one that will serve the people of Hong Kong and protect their rights. We cannot be the "masters of our own house" as announced by Chief Executive Tung Chee-hwa at the time of the handover in 1997 when we must question the intentions of our government and its sincerity in defending our freedoms.