

Dear Mr. Ricky Fung:

I am writing to you to draw your attention to a serious matter.

In September 2002, the government of Hong Kong decided to implement Article 23 in the Basic Law with its three months "consultation" period, ending on Dec. 24. Diverse communities within Hong Kong, as well as Western countries, including the UK and US governments, have been voicing their concerns over the negative impact it would bring to Hong Kong's rule of law and its independent legal system, and, eventually, Hong Kong's reputation as an international financial and trading center.

Article 23 of the Basic Law stipulates that the Hong Kong government shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion, theft of state secrets, and related legislation. It was first added to the draft of the Basic Law on the insistence of the Government of the PRC in the aftermath of the Tiananmen Square massacre. Most experts agree that its provisions are in breach of the provisions of the Joint Declaration, because it applies, to Hong Kong, Mainland legal concepts that are incompatible with the freedoms guaranteed under Article 3(5) in the Declaration.

For example, in the consultation document, the key offences of treason, secession, sedition, and subversion are referred in ambiguous terms that would allow the government to use the law as a legal weapon to deny, rather than protect, people's rights. At issue is: in a democracy, country and government are two distinct concepts, whereas in a totalitarian regime, they are treated as one. So, a dissenting opinion from the government could be easily interpreted as "subversive."

One clause in the proposal proscribes any organization in Hong Kong that has been banned on national security grounds in Mainland China, without any independent investigation by the Hong Kong government, within the domain of Hong Kong. Since the definition of "national security" would be determined by Beijing, local organizations could become unlawful without any oversight or protection by the courts in Hong Kong. Therefore, this clause would negate the model, "one country, two systems."

The consultation document also grants too much discretionary power to the police, who can enter premises to conduct searches and seize materials merely for investigative purposes, without any warrant issued by a court of law. The proposal to widen the provisions on unlawful disclosure of information may inhibit freedom of information and the press, for what is deemed a "state secret" may, in reality, merely be a remark or decision that is politically embarrassing. While the consultation paper outlines the types of information that should not be unlawfully disclosed, it does not indicate who will make the important decisions about what specific information is a state secret. Journalists and other local and international observers have already noted a trend towards self-censorship in the Hong Kong media since 1997. The provisions of this consultation document, if enacted into legislation, will only further contribute to the decline of freedom of the press in the territory.

Any Hong Kong resident, regardless of who he or she is, or any foreign nationals, as long as he or she is physically present in Hong Kong (visiting or just transferring via Hong Kong), would be subject to this legislation. Extradition could be exercised upon being found guilty.

Additionally, the SAR Government does not intend to issue a "white bill" to set out details following the consultation period. Instead, it would only introduce a "blue bill" in the Legislative Council (Legco), and start the legislative process. Presumably, the bill will get passed before the legislative year ends in July, next year. The difference between the white bill and the blue bill is that the former indicates the Government still holds an open view, while the latter indicates a foregone conclusion. Since the majority of seats in the Legco are not democratically elected, no matter how harsh the bill is or how strong the public opposition, the bill will inevitably be passed.

So the so-called consultation period (only three short months) only serves as forcing a blank check upon the Hong Kong people--you must agree and sign, yet the amount taken from you would be up to the collector of the check!

It is widely agreed that freedom of information as well as rule of law are the keys to economic development. But Article 23 legislation, as put forth by Martin Lee, the Chairman of Hong Kong Democratic Party, would, if passed, become the last nail of the coffin of Hong Kong's freedoms.

When Hong Kong was handed over to PRC five years ago, the one country, two systems policy was applauded as an innovation in political systems. In the past five years, following Hong Kong's handover to Mainland China, the economy of Hong Kong has continued to decline, and Hong Kong has dropped from an international economic center to a regional center. In today's global economy, what will Article 23 bring to the rest of the world if it is enacted? News came from Hong Kong, yesterday, that about a dozen foreign banks were planning on withdrawing from Hong Kong.

History has witnessed how Shanghai, once the brightest pearl in the Far East, has been severely repressed by the Communist Party. After experiencing more than 40 years's stasis, Shanghai is still struggling, on a quite unhealthy and unstable foundation of rule of law, to resume its splendor of yesterday. Today, when another golden goose is about to be snatched before our very eyes, we cannot and should not just let it be.

Please join us to oppose the Article 23 proposal.

Thank you,

Alice Ai