

Legislative Council

Bills Committee on National Security (Legislative Provisions) Bill

**Summary of views expressed/suggestions made by organizations/individuals on
the Bill prepared by the Legislative Council Secretariat**

29 May 2003

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Part I - General Comments

<div> <div>Organization/ Individual</div> <div>Written submission No.</div> </div>		General comments
1.	Ms Anne HAKOSALO Submission No. 1	(a) Urged the Administration to take immediate steps to withdraw the Bill until the rights of speech, belief and association of Hong Kong people could be guaranteed.
2.	Mr TC Billy LEUNG Submission No. 2	(a) Opposed the enactment of the Bill to implement Article 23 of the Basic Law (BL23).
3.	Mr BAHRUNANEE Submission No. 3	(a) Opposed the enactment of the Bill to implement BL23.
4.	Committee to Protect Journalists Submission No. 4	(a) The Bill, in its current form, exceeded the requirements of BL23 and should not be enacted; (b) The Bill provided no assurances that Hong Kong's judiciary would have the authority and the independence to restrict abuses in the enforcement of the Bill; and (c) BL23 offences were defined in vague terms that would be open to interpretation by authorities.
5.	International Publishers' Association Submission No. 5	(a) Enactment of the Bill was not necessary, considering that the Hong Kong current legislative body was already able to assure the protection of national security.
6.	C & J Associates Ltd Submission No. 6	(a) No objection on the provisions of the Bill.

<div> <div>Organization/ individual</div> <div>Written submission No.</div> </div>		General comments
7.	愛國營商小組 Submission No. 7	(a) No objection on the provisions of the Bill.
8.	Heung Yee Kuk New Territories Submission No. 8	(a) The Bill was an improvement over the proposals to implement BL23 contained in the Consultation Document published in September 2002
* 9.	Professor Albert H Y CHEN Faculty of Law University of Hong Kong Submission No. 9	(a) The underlying principles of the Bill were appropriate; and (b) The Bill did not introduce the Mainland concept and practices into Hong Kong, and it demonstrated the principle of "one country, two systems".
* 10.	Joint Committee of Hong Kong Fisherman's Organizations Submission No. 10	(a) Supported the enactment of the Bill to implement BL23.
* 11.	Hong Kong Fishermen's Association Submission No. 11	(a) Supported early enactment of the Bill to implement BL23.
* 12.	Hong Kong Youth Association Submission No. 12	(a) Supported early enactment of the Bill to implement BL23.
* 13.	New Century Forum Submission No. 13	(a) Supported the enactment of the Bill to implement BL23.

Organization/ individual		General comments
Written submission No.		
* 14.	Federation of Hong Kong Guangdong Community Organizations Ltd. Submission No. 14	(a) Supported early enactment of the Bill to implement BL23; and (b) The Bill had struck a right balance between safeguarding national security and upholding human rights, and was in compliance with the provisions of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights applicable to Hong Kong.
* 15.	The Association of Hong Kong Health Care Professionals Submission No. 15	(a) Supported early enactment of the Bill to implement BL23; and (b) Considered certain provisions of the Bill too lenient. For instance, an offence of treason could only be constituted if a person used force or serious criminal means that seriously endangered the territorial integrity of the People's Republic of China (PRC). By this logic, this would mean that a person would not commit murder unless he/she caused another person to die.
* 16.	Hong Kong Polytechnic Alumni Association Submission No. 16	(a) Supported enactment of the Bill to implement BL23.
* 17.	Federation of Hong Kong Kowloon New Territories Hawker Associations Submission No. 17	(a) Supported enactment of the Bill to implement BL23 within the current legislative year; and (b) The Bill should be stringent, rather than lenient, in order to better safeguard the territorial integrity and the independence of PRC. For instance, the common law offence of misprision of treason should be included in the Bill.

<div> <div>Organization/ individual</div> <div>Written submission No.</div> </div>		General comments
*	18. Tai Po Tertiary Student Association Submission Nos. 18 and 52	(a) Supported enactment of the Bill to implement BL23; and (b) Considered certain provisions of the Bill too lenient. For instance, the offence of secession no longer included resisting the Central People's Government in its exercise of sovereignty over a part of China, and a person would not commit an offence of secession by threat of force, both of which were proposed in the Consultation Document.
*	19. The Hong Kong Island Federation Submission No. 19	(a) Supported enactment of the Bill to implement BL23.
*	20. The Association of the Hong Kong Central and Western District Limited Submission No. 20	(a) Supported enactment of the Bill to implement BL23 within the current legislative session.
*	21. The Hong Kong Southern District Alliance Submission No. 21	(a) Supported enactment of the Bill to implement BL23.
*	22. Kowloon City, Kwun Tong and Wong Tai Sin Resident's Association Company Limited Submission No. 22	(a) Supported enactment of the Bill to implement BL23 within the current legislative session.

Written submission No.		Organization/ individual	General comments
*	23.	The Chinese Muslim Cultural & Fraternal Association and Hong Kong Chinese Islamic Federation Ltd Submission No. 23	(a) Supported early enactment of the Bill to implement BL23.
*	24.	Miss WONG Wai-yee Submission Nos. 24 and 51	(a) Supported early enactment of the Bill to implement BL23.
*	25.	New Century Society Ltd. Submission No. 25	(a) Supported early enactment of the Bill to implement BL23.
*	26.	Yau Tsim Mong Federation of Association Submission No. 26	(a) Supported enactment of the Bill to implement BL23.
*	27.	Hong Kong Federation of Fujian Association Submission No. 27	(a) Supported enactment of the Bill to implement BL23.
*	28.	Jin Jiang Clans Association (H.K.) Limited Submission No. 28	(a) Supported enactment of the Bill to implement BL23.
*	29.	Puning Clansmen's Association Limited Submission No. 29	(a) Supported enactment of the Bill to implement BL23; and (b) The Bill complied with human rights covenants.

<div> <div>Organization/ individual</div> <div>Written submission No.</div> </div>		General comments
*	30. Mr NG Wai-tat, Jacky Submission No. 30	(a) Supported enactment of the Bill to implement BL23.
*	31. Mr LAM Fan-I Submission No. 31	(a) The Bill to implement BL23 should be enacted without delay.
*	32. Mr Harvey S K PONG Submission No. 32	(a) Supported enactment of the Bill to implement BL23.
*	33. Mr K K LIU Submission No. 33	(a) Supported enactment of the Bill to implement BL23.
*	34. Hong Kong Federation of Education Workers Submission No. 34	(a) The Bill had fully taken into account public concerns/views and had struck a right balance in upholding human rights and safeguarding national security.
*	35. Mr WONG Chun-kong Submission No. 35	(a) Supported in principle the enactment of law to safeguard national security.
*	36. Mr CHAN Bing-woon Submission No. 36	(a) Supported early enactment of the Bill to implement BL23.
	37. Sha Tin District Council Submission No. 37	(a) A motion was passed at the Sha Tin District Council meeting held on 29 November 2002 supporting the enactment of legislation to implement BL23.

<div> <div>Organization/ individual</div> <div>Written submission No.</div> </div>	General comments
38. Mr 范國威, member of Sai Kung District Council Submission No. 38	(a) There was no need to enact legislation to implement BL23.
39. Mr 黃慶華, member of Sai Kung District Council Submission No. 38	(a) Supported the enactment of the Bill to safeguard national security.
40. Dr Clement K M LEUNG Submission No. 39	(a) Supported the enactment of the Bill to implement BL23 and considered the Bill fair and acceptable.
41. Ms 費斐 Submission No. 40	(a) Supported the enactment of the Bill to safeguard national security.
42. Mr 溫嘉旋 Submission No. 41	(a) Supported the enactment of the Bill to safeguard national security.
43. Mr YEUNG Wai-sing, member of Eastern District Council Submission No. 42	(a) Supported early enactment of the Bill to safeguard national security.
44. Hong Kong Liner & Gillnetting Fisherman Association Submission No.43	(a) Supported early enactment of the Bill to safeguard national security.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>		General comments
45.	Hong Kong & Kowloon Fishermen Association Limited Submission No. 44	(a) Supported the enactment of the Bill to safeguard national security.
46.	葵涌南居民聯會主席 Mr 張彼得 Submission No. 45	(a) Supported the enactment of the Bill to safeguard national security.
* 47.	The King Chung Association Submission No. 46	(a) Supported early enactment of the Bill to safeguard national security.
48.	New Territories Fishermen Fraternity Association Submission No. 47	(a) Supported the enactment of the Bill to safeguard national security.
49.	Mr NGAI Shiu-kit Submission No. 48	(a) Supported the enactment of the Bill to safeguard national security.
50.	Hong Kong General Chamber of Commerce Submission No. 49	(a) Believed the Bill was in conformity with the Basic Law, which provided for basic rights and freedom and the international covenants involving such rights and freedom. Also believed that international recognition of the importance with which the people of Hong Kong held these basic freedom would promote and ensure the continuation of Hong Kong as a major international business and financial centre.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>		General comments
51.	Eating Establishment Employees General Union Submission No. 50	(a) Supported the early enactment of the Bill to safeguard national security.
* 52.	Hong Kong Bar Association Submission No. 53	(a) Some of the provisions of the Bill, including the proposed amendments to the Official Secrets Ordinance and the proposed amendments to the Societies Ordinance, were not mandated by BL23. Only some but not all of the proposed amendments to the Crimes Ordinance were required by BL23. The laws on the offence of treason should be modernized and the laws on sedition refined. However, the Bar was of the view that acts of subversion and secession could be prohibited without creating new offences.
* 53.	Hong Kong Chinese Reform Association Ltd Submission No. 54	(a) Supported enactment of the Bill to implement BL23 before the end of 2002-03 legislative session.
* 54.	New Territories Association of Societies Submission No. 55	(a) Supported enactment of the Bill to implement BL23 without delay.

Submission No. of Written submission	Organization/ individual	General comments
* 55.	Hong Kong Journalists Association Submission No. 56	(a) Opposed the enactment of the Bill as there was no pressing need for it; and (b) As many provisions of the Bill were highly contentious, the Bills Committee should accord sufficient time for thorough debate to ensure that the Bill would give maximum protection to the rights and freedoms of the people of Hong Kong.
* 56.	Hong Kong Political Science Association Submission No. 58	(a) There was no need to enact the Bill, as there were existing laws in Hong Kong to meet the requirements of BL23. If new legislation must be enacted to implement BL23, it should only aim at reforming existing laws to improve human rights; and (b) There should be legislation to ensure that the Government would not seek an interpretation of the Basic Law from the Standing Committee of the National People's Congress, in the event that the Bill, if enacted, was challenged under the Basic Law.
* 57.	Hong Kong Association of Falun Dafa Submission No. 59	(a) Opposed the enactment of the Bill.
58.	Motor Transport Workers General Union Submission No. 60	(a) Supported the enactment of the Bill to implement BL23.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>		General comments
59.	Mr Wilfred LEE Submission No. 61	(a) Provisions in the Bill were very liberal, and generally could protect citizens from unscrupulous application of the law by the Government.
* 60.	Kowloon Federation of Associations Submission No. 63	(a) Supported the enactment of the Bill to implement BL23.
* 61.	Hong Kong Federation of Trade Unions Social Policy Committee Submission No. 64	(a) Supported the enactment of the Bill to implement BL23.
* 62.	Mr LOK Kung-nam, Peter Submission No. 65	(a) Supported enactment of the Bill to implement BL23 without delay; and (b) Need to safeguard national security should supercede that for complying with ICCPR.
* 63.	The Hong Kong Wan Chai District Association Ltd Submission No. 66	(a) Supported enactment of the Bill to implement BL23 within the current legislative session.
* 64.	China Universities Alumni (H.K.) Association Submission No. 67	(a) Supported the enactment of the Bill to implement BL23.
* 65.	Miss Alice MAK Kwai Tsing District Council Member Submission No. 68	(a) Supported the enactment of the Bill to implement BL23.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	General comments
* 66. The Chinese Manufacturers' Association of Hong Kong Submission No. 69	(a) Supported the enactment of the Bill to implement BL23.
* 67. Hong Kong Political, Economic and Cultural Society Submission No. 70	(a) Supported the enactment of the Bill to implement BL23.
* 68. Shaoguan Friendship Liaison Association Limited Submission No. 71	(a) Supported the enactment of the Bill to implement BL23.
* 69. Zhongshan University Law Faculty Hong Kong Students Association Limited Submission No. 72	(a) Supported the enactment of the Bill to implement BL23; and (b) There were safeguards in the Bill to protect human rights, freedom and interest of citizens.
* 70. The Unified Association of Kowloon West Limited Submission No. 74	(a) Supported the enactment of the Bill to implement BL23.
* 71. Hong Kong Senior Education Workers Association Limited Submission No. 75	(a) Supported the enactment of the Bill to implement BL23.

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	General comments
<div>* 72.</div> <div>Fukien Chamber of Commerce Submission No. 76</div>	(a) Supported the enactment of the Bill to implement BL23.
<div>* 73.</div> <div>Hong Kong New Generation Pulse Submission No. 77</div>	(a) Supported the enactment of the Bill to implement BL23.
<div>* 74.</div> <div>Titron Industries Limited Submission No. 78</div>	(a) Supported the enactment of the Bill to implement BL23; and (b) Urged all parties to engage in rational debate to help forge a set of security law that could best serve Hong Kong. .
<div>* 75.</div> <div>Mr WONG Chat-chor, Samuel Submission No. 79</div>	(a) The Bill as a whole was narrowly drafted and proportionate to the need for enactment under BL23, save the provisions under the Official Secrets Ordinance which might require further consideration.
<div>* 76.</div> <div>The Hong Kong Buddhist Association Submission No. 82</div>	(a) Supported the enactment of the Bill to implement BL23.
<div>* 77.</div> <div>Hong Kong Culture Association Limited Submission No. 83</div>	(a) Although there was still room for improvement, the Bill nevertheless could meet the requirements of safeguarding human rights and national security on the one hand and upholding the principle of "one country, two systems" on the other.

Submission No. of Written submission	Organization/ individual	General comments
* 78.	Hong Kong Christian Institute Submission No. 84	(a) Could not support the Bill which sacrificed basic human rights in the name of protecting national security, and that Hong Kong still did not have a democratic and representational political system.
* 79.	The Association for the Advancement of Feminism Submission No. 85	(a) Opposed the enactment of the Bill; and (b) More hearings should be held to consult the public on the provisions of the Bill.
* 80.	Hong Kong Confederation of Trade Unions Submission No. 86	(a) Enactment of the Bill should be put on hold, as many of its provisions were based on faulty principles and technically flawed.
* 81.	Mr WONG Man-cheung Submission No. 87	(a) Given the far-reaching effect of the Bill on freedom of expression, the Bill should not be enacted in haste. The Government should conduct extensive public consultation on the Bill, preferably after the outbreak of atypical pneumonia in Hong Kong had been contained.
* 82.	Hong Kong Alliance in Support of Patriotic Democratic Movements of China Submission No. 88	(a) Opposed the enactment of the Bill.
83.	Mr Thomas CHOO Submission No. 89	(a) The basic human rights of Hong Kong people could not be safeguarded if the Bill was enacted in its current form. Under pressure from the PRC, many peaceful organizations like the Falun Gong, human rights organizations and the Catholic Church would be amongst the first to be targeted.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>		General comments
84.	李精良 Submission No. 90	(a) Supported the enactment of the Bill to implement BL23.
85.	Mr David Akers-Jones Submission No. 92	(a) Supported the enactment of the Bill to implement BL23; and (b) Safeguards protecting the rights and freedom of Hong Kong citizens were provided in the Bill.
86.	曾憲緯 Submission No. 93	(a) Supported the enactment of the Bill to implement BL23; and (b) The Bill, if enacted, would not undermine the existing freedoms enjoyed by Hong Kong people.
* 87.	Hong Kong Alliance Youth Group Submission No. 94	(a) Opposed the enactment of the Bill.
* 88.	April Fifth Action	(a) Opposed the enactment of the Bill.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	General comments
<div>* 89.</div> <div>Amnesty International Hong Kong Section Submission No. 96</div>	<div>(a) The Bill enacted to implement BL23 must not only conform with BL39, and should also conform with Articles 9, 14, 15, 19, 21 and 22 of the Basic Law;</div> <div>(b) Supported the calls made by numerous groups for the introduction of a white bill, or failing that, for the proposed legislation to undergo a more thorough and extensive consultation period;</div> <div>(c) There appeared to be no objective necessity for the Bill to be rushed through the legislative process. Given the potentially damaging effect of the Bill to human rights, ample opportunities must be provided for public debate; and</div> <div>(d) Unless the Bill was revised and clarified, there would remain a great potential for widespread abuse and a dramatic reduction in the protection and promotion of the rights of Hong Kong people to exercise their fundamental rights of freedom of expression, information and association.</div>
<div>* 90.</div> <div>Hong Kong Youth & Tertiary Students Association Submission No. 97</div>	<div>(a) Supported the enactment of the Bill to implement BL23.</div>
<div>* 91.</div> <div>Justice & Peace Commission of the Hong Kong Catholic Diocese Submission No. 100</div>	<div>(a) Opposed the enactment of the Bill.</div>

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	General comments
<div> <div>* 92.</div> <div>Democratic Party Submission No. 101</div> </div>	<div> <div>(a) Opposed the enactment of the Bill within the 2002-03 legislative session, as the Bill in its current form would seriously undermine the freedom and human rights of Hong Kong people; and</div> <div>(b) The Bill should adopt the Johannesburg Principles on National Security, Freedom of Expression and Access to Information (Johannesburg Principles). Notably, an expression might be punished as a threat to national security only if a government could demonstrate that the expression was intended to incite imminent violence, it was likely to incite such violence and there was a direct and immediate connection between the expression and the likelihood or occurrence of such violence.</div> </div>
<div> <div>* 93.</div> <div>Civil Human Rights Front Submission No. 103</div> </div>	<div> <div>(a) Urged the Administration to withdraw the Bill, in view of the wide public concern and the fact that the legislature and the Chief Executive (CE) were not fully democratically elected and the outbreak of atypical pneumonia was yet to be eradicated.</div> </div>
<div> <div>* 94.</div> <div>Hong Kong Voice of Democracy Submission No. 105</div> </div>	<div> <div>(a) Strongly opposed the enactment of the Bill.</div> </div>
<div> <div>* 95.</div> <div>Mr TSANG Kin-shing Submission No. 107</div> </div>	<div> <div>(a) Strongly opposed the enactment of the Bill.</div> </div>

<div> <div>Submission No. of Written submission</div> <div>Organization/ Individual</div> </div>	General comments
<div>* 96.</div> <div>Hong Kong Professional Teachers' Union Submission No. 108</div>	<div>(a) The legislative process of the Bill should be scrapped immediately, have regard to the divisive views of the public on the Bill and the fact that the legislature was not fully elected by popular vote; and</div> <div>(b) The Bill, if enacted, would undermine the freedom of speech.</div>
<div>* 97.</div> <div>The Chinese University of Hong Kong Student Union Submission No. 109</div>	<div>(a) Opposed the enactment of Bill when the legislature was not yet fully returned by direct election.</div>
<div>* 98.</div> <div>Mr CHAU Chun-yam Submission No. 110</div>	<div>(a) Opposed the enactment of the Bill until China had democracy; and</div> <div>(b) The Bill should comply with international covenants on human rights and adopt the Johannesburg Principles.</div>
<div>* 99.</div> <div>New Youth Forum Submission No. 111</div>	<div>(a) Supported the enactment of the Bill to implement BL23.</div>
<div>* 100.</div> <div>Kwun Tong Resident Association Submission No. 113</div>	<div>(a) Supported early enactment of the Bill to implement BL23.</div>

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>		General comments
* 101.	Choi Shek Resident Service Centre Submission No. 114	(a) No deadline should be set for enacting the Bill within the current legislative session; and (b) The Administration should carefully consider the views of the Hong Kong Bar Association on the Bill.
* 102.	China Democratic Party Submission No. 115	(a) Opposed the enactment of the Bill.
* 103.	Mr CHUI Pak-tai Wong Tai Sin District Council Member Submission No. 116	(a) Expressed grave concern about the absence of clear delineation between safeguarding national security and the power of the regime in the Bill.
* 104.	Hong Kong Catholic Social Communications Office Submission No. 117	(a) Appalled at the manner in which the legislative process of the Bill was being promoted; and (b) Expressed regret at the Administration's refusal to publish a white bill for further public consultation.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	General comments
<div>* 105.</div> <div>The Frontier Submission No. 118</div>	<div>(a) There was no need to enact the Bill to implement BL23 as there were existing laws;</div> <div>(b) The implementation of the Bill would in effect extend the applications of the national security laws of the Mainland to Hong Kong, which aimed at suppressing the rights of individuals to express dissenting views;</div> <div>(c) BL23 should be deleted; and</div> <div>(d) The Administration should introduce legislative amendments to the Public Order Ordinance and the Societies Ordinance to delete those provisions enacted by the Provisional Legislative Council, as well as to the Crimes Ordinance, the Official Secrets Ordinance and the Societies Ordinance to ensure these ordinances could protect freedom of expression and the rights of individuals.</div>
<div>* 106.</div> <div>The Hong Kong Overseas Chinese General Association Submission No. 119</div>	<div>(a) There was a need to enact legislation to safeguard national security;</div> <div>(b) Definitions of the crimes under the Bill were at variance with that under the relevant Mainland laws; and</div> <div>(c) Some Chinese wordings of the Bill needed to be improved.</div>
<div>* 107.</div> <div>Hong Kong Federation of Students Submission No. 120</div>	<div>(a) Opposed the enactment of the Bill.</div>

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	General comments
<div> <div>* 108.</div> <div>Article 23 Concern Group Submission No. 121</div> </div>	<div> <div>(a) Further legislation to implement BL23 was unnecessary, nor was there any need to rush through the enactment of the Bill;</div> <div>(b) A law reform exercise should be carried out to tidy up existing legislation to ensure they conformed to human rights standards and were adapted to Hong Kong's new status as a Special Administrative Region of PRC;</div> <div>(c) The Bill as drafted was in need of much rethinking to reach the requisite standard for legislation of such constitutional importance; and</div> <div>(d) Reminded the Government and the Legislative Council to hold their promise that the Bill would be open to the widest public consultation and changes to the provision should remain open in a way which was no different from a white bill.</div> </div>
<div> <div>* 109.</div> <div>Law Association, Hong Kong University Student Union Submission No. 122</div> </div>	<div> <div>(a) Urged the Administration to consider and consult the opinions of different organizations.</div> </div>

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	General comments
<div>* 110.</div> <div>Hong Kong Polytechnic University Student Union Submission No. 123</div>	<div>(a) Opposed the enactment of the Bill, as many expressions in the Bill were ambiguous and broadly defined. This was at variance with the Johannesburg Principles which stipulated that any restriction prescribed by law must be accessible, unambiguous, drawn narrowly and with precision so as to enable individuals to foresee whether a particular action was unlawful; and</div> <div>(b) The existing legislature was not yet fully elected by popular vote.</div>
<div>* 111.</div> <div>Union of Hong Kong Catholic Organizations in Support of the Patriotic & Democratic Movement in China Submission No. 124</div>	<div>(a) Opposed the enactment of the Bill, in view of the inevitability of the application of the Mainland laws on national security to Hong Kong. A case in point was the proscription of a local organization which was subordinate to a prohibited Mainland organization.</div>
<div>* 112.</div> <div>The Law Society of Hong Kong Submission No. 125</div>	<div>(a) Hong Kong had an obligation to enact legislation to implement BL23.</div>
<div>* 113.</div> <div>The Hong Kong Executive, Administrative & Clerical Staff Association Submission No. 126</div>	<div>(a) Supported the enactment of the Bill to implement BL23.</div>
<div>* 114.</div> <div>Hong Kong Federation of Women Submission No. 127</div>	<div>(a) Supported the enactment of the Bill to implement BL23.</div>
<div>* 115.</div> <div>Tseung Kwan O Fujianese Association Submission No. 128</div>	<div>(a) Supported early enactment of the Bill to implement BL23.</div>

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	General comments
* 116. The Hong Kong Eastern District Community Association Submission No. 130	(a) Supported early enactment of the Bill to implement BL23.
* 117. The Foochow Association Limited Submission No. 131	(a) Supported the enactment of the Bill to implement BL23.
* 118. The University of Hong Kong Student Union Submission No. 132	(a) Many provisions in the Bill were vague and unnecessarily restricted human rights; and (b) Opposed enactment of the Bill.
* 119. The Joint Committee of Hong Kong Free Societies concerning the Legislation of Article 23 of the Basic Law Submission No. 134	(a) Concerned that the Bill would be used as a tool to suppress people sympathetic to the independence of Taiwan.
* 120. Asian Human Rights Commission Submission No. 135	(a) Concerned that the Bill, if enacted, would seriously threaten the freedoms of Hong Kong people and the rule of law in Hong Kong.
* 121. Hong Kong Federation of Employees in Public Utilities Submission No. 136	(a) Supported the enactment of the Bill to implement BL23.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	General comments
<div> <div>* 122.</div> <div>Hong Kong Construction Industry Employees General Union Submission No. 137</div> </div>	(a) Supported early enactment of the Bill to implement BL23.
<div> <div>* 123.</div> <div>The Student Union of the Hong Kong Shue Yan College Submission No. 138</div> </div>	<div>(a) There was no need to enact the Bill to implement BL23, and</div> <div>(b) Expressed regret about the Administration's refusal to publish a white bill.</div>
<div> <div>124.</div> <div>Hong Kong Baptist University Students Union Submission No. 139</div> </div>	<div>(a) It was not the right time to enact the Bill to implement BL23;</div> <div>(b) There were existing laws to deal with the offences specified by BL23; and</div> <div>(c) More time should be provided for public consultation, as the three months' period to consult the public on the proposals to implement BL23 was too short.</div>
<div> <div>* 125.</div> <div>Hong Kong Federation of Journalists Submission No. 140</div> </div>	<div>(a) Supported early enactment of the Bill to implement BL23; and</div> <div>(b) Freedom of the press and freedom of speech would not be undermined.</div>
<div> <div>* 126.</div> <div>Neighbourhood and Worker's Service Centre Submission No. 141</div> </div>	(a) Strongly opposed the enactment of the Bill.

Submission No. of Written submission	Organization/ individual	General comments
* 127.	Hong Kong News Executives' Association Submission Nos. 142 and 153	(a) Urged the Administration to adopt an open mind and carefully listen and consider the concerns expressed by the public; and (b) According to a survey conducted by the Hong Kong News Executives' Association on the Bill, over 80% of the 809 respondents considered that the Bill would undermine the freedom to gather and report news. Whereas about 60% considered that the Bill would disrupt normal journalistic works and about 65% considered that the Bill would affect how journalists would report news and in choosing topics to report.
* 128.	The Society of Publishers in Asia Submission No. 144	(a) Supported the enactment of the Bill to implement BL23, but was against expansion of that mandate to criminalize aspects of the legitimate exercise of freedoms of a civil society and a free press environment.
* 129.	Mr Benjamin Tsz-ming LIU Submission No. 145	(a) Supported the enactment of the Bill to implement BL23.
* 130.	Mr GU Minkang School of Law City University of Hong Kong Submission Nos. 147 and 157	(a) The Administration should study the practices of other jurisdictions, apart from the United Kingdom, in enacting law on national security, to ensure that a right balance between safeguarding national security and human rights in the Bill could be struck.
* 131.	China Labour Bulletin Submission No. 148	(a) Deeply concerned that the Bill, if enacted, would erode "one country, two systems" and decrease the protection and promotion of fundamental human rights in Hong Kong.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>		General comments
* 132.	Hong Kong Federation of Catholic Students Submission No. 149	<p>(a) It was not the right time to enact legislation to implement BL23, having regard to the fact that the legislature was not fully elected by popular vote; and</p> <p>(b) Expressed regret at the Administration's refusal to introduce a white bill.</p>
133.	The Association of the Bar of the City of New York Submission No. 150	(a) The Bill, as drafted, threatened rights embedded in the Basic Law. If enacted, the Bill would result in years of costly litigation while creating doubts as to Hong Kong's commitment to fundamental human rights.
134.	香港中文大學學生會學生福音團契 Submission No. 151	<p>(a) A Bill to implement BL23 should be enacted only when Hong Kong had a fully democratic political system and where the provisions proposed in the Bill had the support of the general public; and</p> <p>(b) Urged the Administration to withdraw the Bill.</p>
135.	Shobhakar Budhathoki Submission No. 154	<p>(a) Deeply concerned about the enactment of the Bill, as the laws contained therein would jeopardize freedom of expression in general, and press freedom in particular; and</p> <p>(b) Disappointed that the Bill had not reflected the views of the 26 international freedom of expression organizations submitted to the Government during its consultation exercise late last year. These 26 organizations represented at least half a million media workers and managers.</p>

Submission No. of Written submission		Organization/ individual	General comments
136.	Human Rights Watch Submission No. 158		(a) It was unfortunate that the legislation to implement BL23 was not issued as a white bill, which would provide the widest possible public consultation on the specific text; (b) The Bill should not be enacted until Hong Kong had democratic election of the legislature and CE by universal suffrage; and (c) As pointed out by the Hong Kong Bar Association and numerous legal authorities, in most areas the existing laws were sufficient to prohibit the acts and activities required by BL23.
137.	Robert RUTKOWSKI Submission No. 159		(a) It was unfortunate that the legislation to implement BL23 was not issued as a white bill, which would provide the widest possible public consultation on the specific text; (b) The Bill should not be enacted until Hong Kong had democratic election of the legislature and CE by universal suffrage; and (c) As pointed out by the Hong Kong Bar Association and numerous legal authorities, in most areas the existing laws were sufficient to prohibit the acts and activities required by BL23.

Part II - Views/suggestions on specific areas in the Bill

1. Enforcement to be consistent with the Basic Law

Submission No. of Written submission		Organization/ Individual	Views/suggestions
* 1.	Hong Kong Bar Association Submission No. 53		(a) The so-called ‘Pannick’ clause (which sought to expressly subordinate the proposed amendments to the Crimes Ordinance, Official Secrets Ordinance and Societies Ordinance to BL39) was unnecessary. BL23 made clear that the laws required were HKSAR laws and as such they must be compatible with not only BL39 but also all of the Basic Law. If it was thought that these clauses were somehow necessary, they should be in the formula of an “avoidance of doubt” clause.
* 2.	Prof Johannes CHAN Submission No. 155		(a) New section 12A was probably unnecessary, as under BL11, all laws in Hong Kong had to be consistent with BL, including BL39. It was stating the obvious and might create an undesirable impression that other provisions in the Official Secrets Ordinance did not have to comply with the requirements of BL39.

2. Amendments to the Crimes Ordinance

Submission No. of Written submission		Organization/ Individual	Views/suggestions
A. Treason			
1.		Heung Yee Kuk New Territories Submission No. 8	(a) Applying the offence of treason to Hong Kong permanent residents of Chinese nationality could stabilize the confidence of overseas investors and ensure the status of Hong Kong as an international financial centre.
* 2.		Professor Albert H Y CHEN Faculty of Law University of Hong Kong Submission No. 9	(a) The reformed definition of treason demonstrated that the BL23 exercise was not intended to make Hong Kong's laws more draconian. Instead, it was an exercise to review and reform the existing law in the light of the principles enshrined in BL23, and to remove repressive laws that Hong Kong had inherited from its colonial era which were now out-of-date and inconsistent with progressive notions of human rights.
* 3.		Hong Kong Polytechnic Alumni Association Submission No. 16	(a) The offence of treason should also apply to foreign nationals who were Hong Kong permanent residents irrespective of whether the offence occurred in or outside Hong Kong.
4.		Mr 溫嘉旋 Submission No. 41	(a) Expressed concern that the offence of treason would not apply to foreign nationals residing in Hong Kong or visiting in Hong Kong.

<div> <div>Submission No. of Written submission</div> <div>Organization/ Individual</div> </div>	Views/suggestions
A. Treason	
<div>* 5.</div> <div>Hong Kong Bar Association Submission No. 53</div>	<div>(a) The proposed offence of treason should require a specific intent. For example, the offence under new section 2(1)(c) of the Crimes Ordinance should only be committed when a person did a specific act with the intention of assisting and with the intention that the PRC's position in the war should be prejudiced;</div> <div>(b) The Government should provide illustrations as to what kind of 'intent' would be sufficient to constitute as an intent to intimidate the Central People's Government ("CPG"); and</div> <div>(c) The element in new section 2(1)(a) of the Crimes Ordinance of "joining or is a part of foreign armed forces" might present problems to those HKSAR permanent residents of Chinese nationality who joined the armed forces of a foreign country (an act permissible in say, France) before the existence of a state of war but did not participate in any hostile action against the PRC.</div>
<div>6.</div> <div>Mr Gerard McCoy, SC Submission No. 57</div>	<div>(a) It was quite clear under the English law that collaboration with an external enemy would not amount to treason, but an attempted coup d'etat without foreign involvement would.</div>

<div> <div>Submission No. of Written submission</div> <div>Organization/ Individual</div> </div>	Views/suggestions
A. Treason	
* 7. Hong Kong Political Science Association Submission No. 58	(a) Definition of treason was too vague.
* 8. Sham Shui Po Community Association Limited Submission No. 62	(a) The meaning of "intimidate the CPG" and "assistance" was unclear; (b) New section 2(1)(a)(ii) and (iii), 2(1)(b) and (c), 4(b) and 4(c)(i) of the Crimes Ordinance should be deleted; (c) A subsection (iv) for not including peace keeping forces of the United Nations (UN) or forces under the direction or control of UN should be added to new section 2(4)(a) of the Crimes Ordinance on the meaning of "foreign armed forces"; and (d) Definition of when a state of war existed, referred to in new section 2(4)(c) of the Crimes Ordinance, should be clarified to not include non-violent acts such as electronic sabotage.

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Treason	
* 9. Mr LOK Kung-nam, Peter Submission No. 65	(a) The principle of "the benefit of doubt belongs to the State" should be used in the treason offence; (b) To prevent the treason offence from becoming an ex post facto crime, the offence should be expanded to cover joining or assisting foreign armed forces at war with the PRC in an overt or covert war against the PRC or threatening to wage war against the PRC; and (c) The treason offence should not only be confined to Chinese nationals, but should also apply to Hong Kong permanent residents with foreign nationality.
* 10. Miss Alice MAK Kwai Tsing District Council Member Submission No. 68	(a) Expressed support for abolishing the existing offence of misprision of treason in the Bill.
* 11. Hong Kong Political, Economic and Cultural Society Submission No. 70	(a) Existing Hong Kong laws dealing with treason and treasonous acts should be adopted in the Bill.
* 12. Hong Kong Senior Education Workers Association Limited Submission No. 75	(a) The offence proposed in the Bill was more lax than the existing law.

Submission No. of Written submission	Organization/ Individual	Views/suggestions
A. Treason		
* 13.	Hong Kong Christian Institute Submission No. 84	(a) It was unclear what kind of "intent" would be sufficient to constitute an intent to intimidate the CPG.
* 14.	The Association for the Advancement of Feminism Submission No. 85	(a) Definition of treason was too vague; and (b) The proposed treason offence could criminalize speech.
* 15.	Hong Kong Confederation of Trade Unions Submission No. 86	(a) To make "instigate" foreign armed forces to invade the PRC an offence would run contrary to the human rights principles which stipulated that treason should not be committed by mere words without proof of intent and likely to incite immediate violence; (b) Definition of "war" was still too broad. Example included a state of war existed when open armed conflict between armed forces was occurring; (c) It was unclear how the law of treason would apply to Hong Kong permanent residents holding foreign citizenship; and (d) "Assists any public enemy at war with PRC" under new section 2(1)(c) of the Crimes Ordinance was too vague, and could easily be used as a political instrument to thwart legitimate dissent.

Submission No. of Written submission		Organization/ Individual	Views/suggestions
A. Treason			
16.	Mr Mark Colquhoun Submission Nos. 91 and 156		(a) The terms "intimidate" and "compel" referred to in new section 2(1)(a) of the Crimes Ordinance should be clearly defined; (b) The term "instigate" referred to in new section 2(1)(b) of the Crimes Ordinance should be clearly defined; (c) A clause should be inserted in new section 2(1)(c) of the Crimes Ordinance to express in clear and certain terms that acts of humanitarian assistance were not treason since there was no intent to betray; and (d) A clause should be inserted in new section 2 of the Crimes Ordinance to provide that no one should be convicted of treason on the evidence of one witness only, unless the evidence of that witness was corroborated in some material particular by evidence implicating the accused.

Submission No. of Written submission		Organization/ Individual	Views/suggestions
A. Treason			
*	17.	Hong Kong Alliance Youth Group Submission No. 94	(a) Hong Kong permanent residents of Chinese descent and who had acquired foreign nationality might be unwittingly caught for committing treason under the Bill, if the country to which they had acquired nationality was at war with the PRC; (b) Concern was raised as to whether the fact that "foreign armed forces" was defined as including Taiwanese forces was to suppress pro-Taiwan organizations; and (c) The Bill should ensure that no one in Hong Kong would be unwittingly caught for committing treason.

Submission No. of Written submission	Organization/ Individual	Views/suggestions
A. Treason		
* 18.	Amnesty International Hong Kong Section Submission No. 96	<p>(a) "Intimidate" and "compel" referred to in new section 2(1)(a)(ii) and (iii) of the Crimes Ordinance needed to be removed or significantly narrowed;</p> <p>(b) Concerned that "Assists any public enemy at war with the People's Republic of China" referred to in new section 2(1)(c) of the Crimes Ordinance could be taken to include mass demonstration against a war between the PRC and another state, such as Taiwan;</p> <p>(c) Humanitarian assistance to an enemy of the PRC in time of war should be clearly excluded from the offence of treason; and</p> <p>(d) The offence of treason should be more narrowly defined to refer to specific acts of war and violent hostilities.</p>
* 19.	Hong Kong Youth & Tertiary Students Association Submission No. 97	(a) To "intimidate the Central People's Government" referred to in new section 2(1)(a)(ii) of the Crimes Ordinance was too ambiguous, and should be more clearly defined.

<div>Submission No. of Written submission</div> <div>Organization/ Individual</div>		Views/suggestions
A. Treason		
* 20.	The Frontier Submission No. 118	(a) Maximum penalty for treason was higher than that in the Mainland, i.e. life imprisonment versus a three-year prison term; and (b) "Assists any public enemy at war with the People's Republic of China" referred to in new section 2(1)(c) of the Crimes Ordinance could include anti-war activities to protest China's war with other countries and providing humanitarian assistance to a foreign country at war with China.
* 21.	The Hong Kong Overseas Chinese General Association Submission No. 119	(a) It was not clear to what extent would "with intent" to "intimidate" or "compel" the CPG constitute an offence of treason; and (b) To rectify such, treason should be narrowly defined to refer to specific acts involving use of violence which had actually been carried out.
* 22.	Hong Kong Federation of Students Submission No. 120	(a) "Assists any public enemy at war" was ambiguous; and (b) There was no definition of "Central People's Government".

<div> <div>Submission No. of Written submission</div> <div>Organization/ Individual</div> </div>	Views/suggestions
A. Treason	
* 23. Article 23 Concern Group Submission No. 121	(a) It was unclear what was meant by to "intimidate" or "compel" the CPG; (b) To "instigate" foreign armed forces to invade China suggested the offence could be committed by mere speech; and (c) "Assist any public enemy at war with the People's Republic of China" and "prejudice the position of the People's Republic of China in the war" were unclear, and should be narrowly defined to refer to specific acts involving the use of violence.
* 24. Law Association, Hong Kong University Student Union Submission No. 122	(a) "Assist any public enemy at war with the People's Republic of China" and "prejudice the position of the People's Republic of China in the war" were not clearly defined; and (b) Humanitarian aid should be exempted from the offence of treason.
* 25. The Law Society of Hong Kong Submission No. 125	(a) Instigating foreign armed forces to invade might be reprehensible conduct, but to make such conduct a treason offence was not justified.
26. Mr WONG Ying-ho, Kennedy Submission No. 129	(a) What was meant by to "intimidate" and "compel" the PRC should be clearly defined.

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Treason	
* 27. Asian Human Rights Commission Submission No. 135	(a) To "instigate" the PRC was too vague and would allow the Government to prosecute individuals solely for the expression of an opinion. This provision should be deleted; and (b) To "assist any public enemy at war" with the PRC should be clearly defined, including expressly stated that the provision of humanitarian aid would not be included.
* 28. The Student Union of the Hong Kong Shue Yan College Submission No. 138	(a) To "assist any public enemy at war" with the PRC was extremely vague and should be clearly defined.
* 29. Mr GU Minkang School of Law City University of Hong Kong Submission Nos. 147 and 157	(a) Suggested to draw reference from Mainland laws on treason.
* 30. China Labour Bulletin Submission No. 148	(a) The offence of treason needed to be clearly defined, in particular, it must clearly state that all peaceful demonstrations and other legitimate expression of opinions were not treasonous acts.

<div> <div>Submission No. of Written submission</div> <div>Organization/ Individual</div> </div>	Views/suggestions
A. Treason	
* 31. Hong Kong Federation of Catholic Students Submission No. 149	(a) Protecting national security should not be taken to mean protecting the regime; (b) There should be definition of "the Central People's Government"; and (c) The definition of the offence of treason was too broad.
32. The Association of the Bar of the City of New York Submission No. 150	(a) It was unclear what was meant by to "intimidate" or "compel" the CPG.
33. P M TISMAN Submission No. 152	(a) The meaning of "intimidate the Central People's Government" referred to in new section 2(1)(ii) of the Crimes Ordinance was unclear; and (b) It was unclear why the CPG was the target of treason offence rather than the head of state or the PRC.
34. Human Rights Watch Submission No. 158	(a) The offence of treason was invariably imprecise and open for selective abuse. For example, it was unclear what was meant by to "instigate" foreign armed forces to invade China or "assist" any public enemy at war with China with "intent to prejudice the position" of China in such a war.

Submission No. of Written submission		Organization/ Individual	Views/suggestions
A. Treason			
35.	Robert RUTKOWSKI Submission No. 159		(a) The offence of treason was invariably imprecise and open for selective abuse. For example, it was unclear what was meant by to "instigate" foreign armed forces to invade China or "assist" any public enemy at war with China with "intent to prejudice the position" of China in such a war.

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
B. Subversion	
<div>1.</div> <div>Committee to Protect Journalists Submission No. 4</div>	<div>(a) The creation of a new offence of subversion was extraordinarily disturbing, especially in light of the regular use of subversion statutes to imprison journalists in the Mainland;</div> <div>(b) The language of the subversion offence used in the Bill was unacceptably vague. For instance, the expression "intimidates the Central People's Government" was not clearly defined;</div> <div>(c) Although the Government claimed that only the actual use of force or serious criminal acts similar to terrorist activities would be covered, the language of the proposed provision could easily be read more broadly; and</div> <div>(d) Such an ill-defined law could be used to prosecute journalists who criticized the Government.</div>

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
B. Subversion	
<p>* 2.</p> <p>Professor Albert H Y CHEN Faculty of Law University of Hong Kong Submission No. 9</p>	<p>(a) Definition of "subversion" proposed in the Bill was much narrower than the corresponding definition in article 105 of the Chinese Criminal Code, which did not require acts of violence as an essential element in the offence of subversion;</p> <p>(b) However, the phrase "intimidates the Central People's Government" in the proposed definition of "subversion" still left too much to be desired and should be deleted. Whether an act could "intimidate" the PRC Government would depend very much on whether PRC Government was of such nature that it was easily susceptible to intimidation. Hong Kong law should rest on objective standards rather than such subjective considerations as the state of mind of PRC Government and its susceptibility to intimidation; and</p> <p>(c) The first two limbs of the proposed offence of subversion, i.e. disestablishing the basic system of the state and overthrowing the PRC Government were sufficient for the purpose of constituting the offence.</p>
<p>3.</p> <p>Mr 溫嘉旋 Submission No. 41</p>	<p>(a) The offence of subversion should not only confine to use of force or serious criminal means, and should also include making financial contributions to activities such as those relating to the independence of Taiwan.</p>

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
B. Subversion	
4.	<div> <div>Hong Kong General Chamber of Commerce Submission No. 49</div> <div> (a) Unlike the preceding subsections (i) to (iv) which were clearly related to serious risks or damage to life or property, the language used in subsection (v) of new section 2A(4)(b) of the Crimes Ordinance was capable of subjective interpretation and could give rise to concern internationally that it was open to abuse. </div> </div>
* 5.	<div> <div>Hong Kong Bar Association Submission No. 53</div> <div> (a) The HKSAR Government should clarify whether the proposed offence of subversion was one of intent so that the prosecution must not only prove the occurrence of one of the results set out in new section 2A(1)(a)-(c) of the Crimes Ordinance but also that the particular result was intended; (b) The word “force” in the element of “by using force ...” would create uncertainty and should be either defined or left out; (c) The HKSAR Government should clearly explain what acts would amount to “disestablishment of the basic system of the PRC as established by the Constitution of the PRC” and how the employment of this concept of “disestablishment of the basic system of the PRC” as an element of the offence of subversion would reconcile with the exempting of the prescribed act of “pointing out the errors and defects in the ... constitution of the PRC” from being sedition under new section 9D(3)(b); and (d) The HKSAR Government should also illustrate situations in which the CPG might reasonably feel ‘intimidated’. </div> </div>

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
B. Subversion	
<div>6.</div> <div>Mr Gerard McCoy, SC Submission No. 57</div>	(a) It could not be constitutionally invalid to enact penal legislation preventing subversion by stealth, computer or electronic means. There was nothing in the International Covenant that prohibited such laws. Subversion was simply a modern response to modern inventions directed at imperiling the integrity of the State.
<div>* 7.</div> <div>Hong Kong Political Science Association Submission No. 58</div>	<div>(a) Definition of subversion was too vague; and</div> <div>(b) Expressed concern that the maximum penalty of imprisonment for life for committing subversion could only bring about great detriment to Hong Kong's free speech tradition.</div>
<div>* 8.</div> <div>Sham Shui Po Community Association Limited Submission No. 62</div>	<div>(a) The proposed offence could be used to suppress freedom;</div> <div>(b) The expression of "by using force or serious criminal means that seriously endangers the stability of the People's Republic of China or" in new section 2A(1) should be deleted; and</div> <div>(c) New section 2A(1)(a) and (c) and (4)(b) of the Crimes Ordinance should be deleted.</div>

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
B. Subversion	
* 9.	<div>Mr LOK Kung-nam, Peter Submission No. 65</div> <div>(a) The principle of "the benefit of doubt belongs to the State" should be used in the subversion offence; and</div> <div>(b) To prevent the subversion offence from becoming an ex post facto crime, the offence should be expanded to cover joining or assisting foreign armed forces at war with the PRC in an overt or covert war against the PRC or threatening to wage war against the PRC.</div>
* 10.	<div>China Universities Alumni (H.K.) Association Submission No. 67</div> <div>(a) It should also be an offence of subversion to intimidate the PRC, to overthrow the PRC or disestablish the basic system of PRC established by the Constitution of PRC by threat of force.</div>
* 11.	<div>Hong Kong Senior Education Workers Association Limited Submission No. 75</div> <div>(a) The offence of subversion was necessary.</div>
* 12.	<div>Miss Sylvia SIU Submission No. 80</div> <div>(a) The Bill had not taken up the suggestion made by the Law Society of Hong Kong that the expression "intimidates the Central People's Government" should not be part of the offence of subversion.</div>
* 13.	<div>Hong Kong Culture Association Limited Submission No. 83</div> <div>(a) The Bill should make clear what act(s) would constitute "intimidates the Central People's Government".</div>

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
B. Subversion	
* 14. The Association for the Advancement of Feminism Submission No. 85	(a) Definition of subversion was too vague; and (b) The expression "seriously endangers the stability of the People's Republic of China" could be easily abused by the Administration to suppress dissenting opinions.
* 15. Hong Kong Confederation of Trade Unions Submission No. 86	(a) "Overthrows" and "intimidates" the PRC were ambiguous; (b) Definition of "serious criminal means" was extremely vague and broad, and at variance with the Johannesburg Principles; and (c) "Overthrows" and "intimidates" the PRC and "disestablishes" the basic system of the PRC should be deleted, in view of the fact that the PRC Government was not democratically elected and was a one party dictatorship.
* 16. Mr WONG Man-cheung Submission No. 87	(a) A person prosecuted for committing subversion should be made on the basis that his act was made with the intent to disestablish the basic system of the PRC, overthrow the Government of the PRC or intimidate the Government of the PRC.
* 17. Hong Kong Alliance in Support of Patriotic Democratic Movements of China (Alliance) Submission No. 88	(a) Expressed worry that mere slogans of the Alliance would be caught by the offence of subversion.

Submission No. of Written submission	Organization/ individual	Views/suggestions
B. Subversion		
18.	Mr Mark Colquhoun Submission Nos. 91 and 156	(a) The proposed definition of subversion should leave no room for abuse by authorities.
* 19.	Hong Kong Alliance Youth Group Submission No. 94	(a) Safeguarding national security was not equivalent to safeguarding the Government of the PRC. Concerned that act to fight for the end of one party dictatorship in China would be punished under the Bill.
* 20.	Amnesty International Hong Kong Section Submission No. 96	(a) Definition of subversion was still overly vague; (b) The expression "force or serious criminal means" remained too encompassing and included action which "seriously endangers the health or safety of the public or a section of the public" or which "seriously interferes with or disrupts an electronic system or an essential service, facility or system (whether public or private); and (c) Without tighter definitions of "force or serious criminal means", offences of subversion, as well as sedition and secession, could easily be used to silence political opponents.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
B. Subversion	
* 21. Hong Kong Youth & Tertiary Students Association Submission No. 97	(a) "Intimidates the Central People's Government" referred to in new section 2A(1)(c) of the Crimes Ordinance was too ambiguous, and should be more clearly defined.
* 22. Mr CHUI Pak-tai Wong Tai Sin District Council Member Submission No. 116	(a) It was unclear what act would constitute "disestablishes the basic system of the People's Republic of China". For example, it was unclear whether staging a demonstration to call for an end to the one party political system in the Mainland would fall under the meaning of "disestablishes the basic system of the People's Republic of China". It was also unclear whether the organization concerned would be proscribed.

<div>Organization/ individual</div> <div>Submission No. of Written submission</div>	Views/suggestions
B. Subversion	
* 23. The Frontier Submission No. 118	<p>(a) There was no definition of "force", particularly, it was unclear what the differences were between "force" and "serious criminal means" or "engaging in war";</p> <p>(b) "Disestablishes the basic system of the People's Republic of China as established by the Constitution of the People's Republic of China" referred to in new section 2A(1)(a) of the Crimes Ordinance could not be objectively determined as such provision involved ideology;</p> <p>(c) It was unclear what act would constitute "intimidates the Central People's Government" referred to in new section 2A(1)(c) of the Crimes Ordinance;</p> <p>(d) The definition of "serious criminal means" referred to in new section 2A(4)(b) of the Crimes Ordinance was too encompassing. Subsection (v) was particularly worrying because whether an act would constitute a serious criminal means would depend on the outcome of the act and not its culpability. For example, a peaceful assembly might be considered a serious criminal means if it resulted in seriously interfering with an essential facility; and</p> <p>(e) The way new section 2A(1) of the Crimes Ordinance was drafted did not require the Administration to prove that a person committed subversion if his act did cause the consequence. In the light of this, section 2A(1) should be amended to read "任何人爲了將廢止國家根本制度，推翻或恐嚇中央人民政府的目的，而使用嚴重危害中華人民共和國穩定的武力或嚴重犯罪手段，或進行戰爭，即屬顛覆。".</p>

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
B. Subversion	
<div>* 24.</div> <div>Article 23 Concern Group Submission No. 121</div>	<div>(a) "Seriously endangers the stability of the People's Republic of China" might aim at narrowing down "force" and "serious criminal force", but as "serious" and "stability" were not defined, and no direct causal relationship between the act and the consequence was explicitly required, the aim was not achieved;</div> <div>(b) "Disestablishes" and "intimidates" the PRC were ambiguous, uncertain and could not be objectively determined; and</div> <div>(c) The definition of "serious criminal means" raised serious concerns because -</div> <div>(i) there was no explicit protection for the rights and freedom of peaceful demonstration and assembly;</div> <div>(ii) whether an act constituted a "serious criminal means" would depend on the outcome of the act and not its culpability; and</div> <div>(iii) it was unclear what kind of act was targetted by new section 2A(4)(b)(vii) of the Crimes Ordinance providing that a criminal offence committed outside Hong Kong could be "serious criminal means".</div>

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
B. Subversion	
<div>* 25.</div> <div>Law Association, Hong Kong University Student Union Submission No. 122</div>	<div>(a) In the trial proceeding on the offence of "Disestablishes the basic system of the People's Republic of China as established by the Constitution of the People's Republic of China" referred to in new section 2A(1)(a) of the Crimes Ordinance, the court had to determine the exact contents and meaning of the basic system of the PRC as established by the PRC;</div> <div>(b) In so doing, there might be a need to interpret the Constitution of the PRC. However, it was the duty of the Standing Committee of the National People's Congress to interpret the Constitution of the PRC;</div> <div>(c) It was therefore questionable how Hong Kong courts could judge whether the accused had committed the offence of subversion when they did not have the power to interpret the Constitution; and</div> <div>(d) Even if Hong Kong courts were entitled to interpret the Constitution, problems might still arise when the interpretations of Hong Kong courts were in conflict with those made by the Standing Committee of the National People's Congress.</div>
<div>26.</div> <div>Mr WONG Ying-ho, Kennedy Submission No. 129</div>	<div>(a) What was meant by to "intimidate" the PRC should be clearly defined.</div>

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
B. Subversion	
* 27. The Joint Committee of Hong Kong Free Societies concerning the Legislation of Article 23 of the Basic Law Submission No. 134	(a) To "intimidate" the PRC and "serious criminal means" were too vague and should be clearly defined.
* 28. Asian Human Rights Commission Submission No. 135	(a) Provisions on "disestablishes the basic system of the Central People's Government" and "intimidates the Central People's Government" should be deleted, as the definitions of "disestablishes" and "intimidates" were not clear and could be interpreted in a very board manner; and (b) An act of "engaging in war" should be narrowed down to exclude "using force or serious criminal means". This was because the term "force" was unclear and that there were existing laws to deal with crimes as defined by "serious criminal means" in the Bill.
* 29. Mr GU Minkang School of Law City University of Hong Kong Submission Nos. 147 and 157	(a) To "intimidate" the PRC was too vague and should be clearly defined.
* 30. China Labour Bulletin Submission No. 148	(a) The offence of subversion was too vague and should be clearly defined.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
B. Subversion	
* 31. Hong Kong Federation of Catholic Students Submission No. 149	(a) The definition of the offence of subversion was too broad; and (b) The definition of "serious criminal means" raised serious concerns as people who staged peaceful demonstrations which resulted in disruption to an essential service would be prosecuted.
32. The Association of the Bar of the City of New York Submission No. 150	(a) The use of the terms "disestablish", "intimidate" and "serious criminal means" in the offence of subversion was ambiguous, overly broad and vague, making it impossible for one to know whether his/her contemplated action would violate the law.
33. P M TISMAN Submission No. 152	(a) The meaning of "intimidates the Central People's Government" referred to in new section 2A(1)(c) of the Crimes Ordinance was not clear; (b) The definition of "serious criminal means" referred to in new section 2A(4)(b) of the Crimes Ordinance was too broad; and (c) If the term "serious criminal means" was to reflect the sense of gravity that it purported to convey, then the reference to "offence" in subsection (4)(b)(vi) and (vii) should instead be amended to "indictable offence", or, as a minimum, to an offence that might be tried on indictment.

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
B. Subversion	
<div>34.</div> <div>Human Rights Watch Submission No. 158</div>	<div>(a) The offence of subversion was overly broad and vague, and open for selective abuse. For example, it was not clear what was meant by "disestablishes" the basic system of China or "intimidates" the Mainland government by using force or serious criminal means that endangered the "stability" of China. As a result, the HKSAR could classify public rallies, such as those commemorating the Tiananmen event of June 4 as "serious unlawful means" and prosecuting those participating for subversion.</div>
<div>35.</div> <div>Robert RUTKOWSKI Submission No. 159</div>	<div>(a) The offence of subversion was overly broad and vague, and open for selective abuse. For example, it was not clear what was meant by "disestablishes" the basic system of China or "intimidates" the Mainland government by using force or serious criminal means that endangered the "stability" of China. As a result, the HKSAR could classify public rallies, such as those commemorating the Tiananmen event of June 4 as "serious unlawful means" and prosecuting those participating for subversion.</div>

Submission No. of Written submission	Organization/ individual	Views/suggestions
C. Secession		
1.	Committee to Protect Journalists Submission No. 4	(a) Creating a new offence of secession was not necessary, as Hong Kong law on treason was sufficiently broad to cover it; and (b) Although the Government claimed that the actual use of force or serious criminal acts similar to terrorist activities would be covered, the language used in the definition of secession could be read more broadly. The only likely effect of the enactment of the offence of secession was to chill public discussion of the status of Taiwan and independence movements in Tibet and Xinjiang autonomous regions.
* 2.	Professor Albert H Y CHEN Faculty of Law University of Hong Kong Submission No. 9	(a) Definition of "secession" proposed in the Bill was much narrower than the corresponding definition in article 103 of the Chinese Criminal Code, which did not require acts of violence as an essential element in the offence of secession. However, the loose language used by the definition in the Bill still left too much to be desired and might hopefully be refined in the Committee Stage of the Bill.
3.	Mr 溫嘉旋 Submission No. 41	(a) The offence of secession should not only confined to use of force or serious criminal means, but should also include provision of financial assistance to activities such as those relating to the independence of Taiwan.

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
C. Secession	
* 4. Hong Kong Bar Association Submission No. 53	(a) Concerns about the offence of secession were similar to that of the offences of subversion and treason in so far as they employed similarly worded elements of offence; and (b) The reasonableness of the offence of secession lied not so much in the wordings of the substantive offence but in looking at factual situations that might form the basis for a charge of attempt or other inchoate offence.
* 5. Hong Kong Political Science Association Submission No. 58	(a) Definition of secession was too vague; (b) Given the long-standing problems between China and such peripheral communities such as Taiwan and Tibet, it was questionable whether the burden of responsibility for divided loyalties should be imposed on Hong Kong citizens; (c) The added burden of inchoate crimes of attempt, conspiracy, aiding and abetting could only add to the confusion that these crimes could engender for the unwary; and (d) Expressed concern that the maximum penalty of imprisonment for life for committing secession could only bring about great detriment to Hong Kong's free speech tradition.

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
C. Secession	
* 6. Sham Shui Po Community Association Limited Submission No. 62	(a) The proposed offence could be used to suppress freedom; and (b) New section 2B(1)(a) and (4)(b) of the Crimes Ordinance should be deleted.
* 7. Mr LOK Kung-nam, Peter Submission No. 65	(a) The principle of "the benefit of doubt belongs to the State" should be used in the secession offence; and (b) To prevent the secession offence from becoming an ex post facto crime, the offence should be expanded to cover joining or assisting foreign armed forces at war with the PRC in an overt or covert war against the PRC or threatening to wage war against the PRC.
* 8. China Universities Alumni (H.K.) Association Submission No. 67	(a) A person should also be charged for secession if he/she resisted the CPG in its exercise of sovereignty over a part of China by threat of force.
* 9. Hong Kong Political, Economic and Cultural Society Submission No. 70	(a) A person should also be charged for secession if he/she resisted the CPG in its exercise of sovereignty over a part of China by threat of force.
* 10. Hong Kong Senior Education Workers Association Limited Submission No. 75	(a) The offence of secession was appropriate.

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
C. Secession	
* 11. The Association for the Advancement of Feminism Submission No. 85	(a) Definition of secession was too vague; and (b) The expression "seriously endangers the stability of the People's Republic of China" could be easily abused by the Administration to suppress dissenting opinions.
* 12. Hong Kong Confederation of Trade Unions Submission No. 86	(a) Definition of "serious criminal means" was too vague and its scope too broad; and (b) A person who was forced to resort to use of force to defend himself from the armed forces of the PRC to clamp down his/her peaceful means to withdraw any part of the PRC from its sovereignty should not be penalized.
13. Mr Mark Colquhoun Submission Nos. 91 and 156	(a) The proposed definition of secession should leave no room for abuse by authorities.
* 14. Hong Kong Alliance Youth Group Submission No. 94	(a) The offence of secession was too broad. For instance, it was unclear whether people who used non-violent means to seek to withdraw any part of the PRC from its sovereignty might be prosecuted if their acts unintentionally disrupted an essential service.

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
C. Secession	
* 15. The Frontier Submission No. 118	<p>(a) Introducing the offence of secession raised doubts as the offence involved the debate on sovereignty. For example, it would be very difficult for the court to determine whether Taiwan was part of the PRC; and</p> <p>(b) It was unclear what "force" meant, particularly, the differences between "force" and "serious criminal means" or "engaging in war".</p>
* 16. Article 23 Concern Group Submission No. 121	<p>(a) "Seriously endangers the territorial integrity of the People's Republic of China" might aim at narrowing down "force" and "serious criminal force", but as "serious" and "stability" were not defined, and no direct causal relationship between the act and the consequence was explicitly required, the aim was not achieved; and</p> <p>(b) The definition of "serious criminal means" raised serious concerns because -</p> <ul style="list-style-type: none"> (i) there was no explicit protection for the rights and freedom of peaceful demonstration and assembly; (ii) whether an act constituted a "serious criminal means" would depend on the outcome of the act and not its culpability; and (iii) it was unclear what kind of act was targetted by new section 2A(4)(b)(vii) of the Crimes Ordinance providing that a criminal offence committed outside Hong Kong could be "serious criminal means".

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
C. Secession	
* 17. Law Association, Hong Kong University Student Union Submission No. 122	(a) It should be expressly stated in the Bill that acts like peaceful demonstration, assembly and expression of opinions would not be included in the offence of secession.
* 18. Asian Human Rights Commission Submission No. 135	(a) The offence of secession should be narrowed to an act of "engaging in war". The reasons were the same as given under the offence of subversion.
* 19. The Student Union of the Hong Kong Shue Yan College Submission No. 138	(a) The definition of "serious criminal means" raised serious concerns because there was no explicit protection for the rights and freedom of peaceful demonstration and assembly.
* 20. China Labour Bulletin Submission No. 148	(a) The offence of secession was too vague and should be clearly defined.
* 21. Hong Kong Federation of Catholic Students Submission No. 149	(a) The offence of secession was too broad.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
C. Secession	
22. P M TISMAN Submission No. 152	(a) The same objection applied to the use of the term "serious criminal means" in this context as in the context of the offence of subversion.
23. Human Rights Watch Submission No. 158	(a) The offence of secession was overly broad and vague, and open for selective abuse.
24. Robert RUTKOWSKI Submission No. 159	(a) The offence of secession was overly broad and vague, and open for selective abuse.

Submission No. of Written submission		Organization/ individual	Views/suggestions
D. Sedition			
1.	Committee to Protect Journalists Submission No. 4		(a) Only a few common law countries had sedition statutes; (b) New section 9C of the Crimes Ordinance, which criminalized certain acts to handling seditious publications, was highly subjective, and would allow the Government too great a latitude in categorizing publications as seditious; and (c) It called on the Government to repeal the offence of sedition entirely. If seditious offence must be maintained, incitement should be defined as a call for an imminent action that was directly related to the treasonous, subversive or secessionist offence that the call sought to produce.

<div>Organization/ individual</div> <div>Submission No. of Written submission</div>	Views/suggestions
D. Sedition	
2. International Publishers' Association Submission No. 5	(a) The definition of a seditious publication was too vague and could lead to some unexpected interpretations; (b) The concept of "seditious publication" was a clear threat to the fundamental freedom to publish and to read; (c) The provision targetting the import and export of seditious publications was against the spirit of the 1950 Florence Agreement of which Hong Kong was a party; and (d) Should the term "publication" include electronic communication and publications, the Bill would threaten not only print publications in Hong Kong, but potentially also any electronic publication and website accessible from Hong Kong, thus raising serious concerns about the extra-territorial application of the Bill.
3. 愛國營商小組 Submission No. 7	(a) Queried why inciting sedition was not an offence.

Submission No. of Written submission	Organization/ individual	Views/suggestions
D. Sedition		
* 4.	Professor Albert H Y CHEN Faculty of Law University of Hong Kong Submission No. 9	(a) The reformed law of sedition demonstrated that BL23 exercise was not intended to make Hong Kong's laws more draconian. Instead, it was an exercise to review and reform the existing law in the light of the principles enshrined in BL23, and to remove repressive laws that Hong Kong had inherited from its colonial era which were now out-of-date and inconsistent with progressive notions of human rights; and (b) The liberalization of the existing law of sedition proposed in the Bill was undoubtedly a welcome development for freedom of information and freedom of expression and the press in Hong Kong.
* 5.	Hong Kong Polytechnic Alumni Association Submission No. 16	(a) Considered the act of sedition to engage, in Hong Kong and elsewhere, which would seriously endanger the stability of PRC, should not only confine to use of force, as violent public disorder could be caused by such non-violent means as seriously disrupting an electronic system.

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
D. Sedition	
<div>6.</div> <div>Hong Kong General Chamber of Commerce Submission No. 49</div>	<div>(a) There was no justification for creating a separate offence of "seditious publication" with intent to incite, as a person who did any act to demonstrate an intent to incite could be penalized as such, for instance, under new section 9A of the Crimes Ordinance; and</div> <div>(b) The language used in new section 9D(3)(a) and (b) of the Crimes Ordinance suggested that the mistakes, errors or defects were actual, i.e. capable of being proven in court. This would necessarily restrict the defence and would therefore impact on the right of free speech.</div>
<div>* 7.</div> <div>Hong Kong Bar Association Submission No. 53</div>	<div>(a) The offence of sedition by inciting others was a departure from the old common law offence of sedition (which criminalized certain provocative political speech) and appeared to criminalize an intention, and only an intention, which was not necessarily manifested in the public domain;</div>

Submission No. of Written submission	Organization/ individual	Views/suggestions
D. Sedition		
		<p>(b) Could not understand the legal policy behind new section 9A(1)(b) of the Crimes Ordinance which made it an offence for a person, not necessarily a Chinese national or HKSAR permanent resident, to incite others to engage in violent public disorder seriously endangering the stability of the PRC;</p> <p>(c) The Bar noted also that the proposals went further to claim extraterritorial jurisdiction over acts of incitement that, if performed, would not necessarily have repercussions in Hong Kong. The claim was apparently made in respect of a potential threat to the PRC by such acts. The Mainland did not necessarily claim jurisdiction in similar circumstances. As no violent public disorder seriously endangering the stability of the PRC needed to have been occurred before a person could be prosecuted, how was a court to decide whether the acts done were intended to incite violent public disorder (whether within or outside the PRC) that would in fact seriously endanger the stability of the PRC;</p>

<div>Organization/ Individual</div> <div>Submission No. of Written submission</div>	Views/suggestions
D. Sedition	
	<p>(d) The proposed offence of handling seditious publication appeared to be unnecessary since in essence was sedition by inciting others by means of the printed word. Prosecuting this offence as presently drafted would encounter difficulties. The law did not generally recognize things as having any decisive influence over conduct. If a person wrote a pamphlet with the intention of persuading or encouraging the readers to commit a crime, then the authorities should charge the writer with incitement to commit the particular offence; and</p> <p>(e) Failed to see the reason for the proposed removal of the limitation period for bringing prosecution against sedition. Whether an inflammatory speech, spoken or published, would create a real danger to the public peace, or for that matter, the stability of the PRC, would depend very much on conditions and circumstances prevailing at the material time. If the speech was considered to be seditious, then the offence should be prosecuted expeditiously and vigorously and not be left to grow stale.</p>

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
D. Sedition	
<div>* 8.</div> <div>Hong Kong Journalists Association Submission No. 56</div>	<div>(a) Offence of sedition was archaic and should be scrapped. Moreover, the deliberate provocation of public violence or disorder was amply covered by offences in the Public Order Ordinance and other local legislation;</div> <div>(b) Offence of sedition was made worse by the vagueness of some of the wordings in related new sections 2, 2A and 2B of the Crimes Ordinance concerning treason, subversion and secession. Although the Government had tightened some of the wordings in these latter offences, it remained concern about the use of such terms as "intimidates" and "disestablishes" and the definition of "serious criminal means";</div> <div>(c) New section 9C of the Crimes Ordinance concerning the handling of seditious publications should be deleted from the Bill, as it posed the greatest threat to freedom of expression and press freedom in that it dealt with written words. Notably, concern was raised as to whether prosecutions could be enforced against publications carrying repeated reports about comments made by Taiwan leaders or politicians that antagonized Beijing, such as advocating independence of Taiwan;</div>

Submission No. of Written submission	Organization/ individual	Views/suggestions
D. Sedition		
		<p>(d) If the offence of sedition must be retained in the Bill, the Government should, at the very least, bring the offence fully in line with the Johannesburg Principles, in particular Principle 6. To this end, a new section 9E should be added to the Crimes Ordinance to make it clear that a person "has the intention to commit an offence only if, at the time of the alleged offence, his intention was to incite any other person to violence, the occurrence of which was likely or imminent, and there was a direct and immediate connection between the acts referred to in section 9A(1) and such occurrence or likelihood of occurrence". Such a "clear and present danger" test was of paramount importance in an environment such as Hong Kong, in which full democracy and related checks and balances were not properly developed in the political system; and</p> <p>(e) Imposition of a seven-year maximum imprisonment for handling seditious publications was too harsh, as the equivalent at the moment was two years imprisonment on first conviction, and three years imprisonment for subsequent conviction.</p>

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
D. Sedition	
<div>* 9.</div> <div>Hong Kong Political Science Association Submission No. 58</div>	<div>(a) Definition of sedition was too vague;</div> <div>(b) It was doubtful whether any sedition law should be enacted, as sedition was largely a political crime constraining speech and thus had no place in a free society;</div> <div>(c) If a sedition law was to be enacted, it should be narrowly confined to incitement of armed rebellion and fully conformed to the Johannesburg Principles. Accordingly, the sedition provisions should require that the speaker intended an imminent unlawful action specified in the statute and that such unlawful action be likely to occur;</div> <div>(d) The offence of handling seditious publication should be dropped; and</div> <div>(e) Expressed concern that the maximum penalty of imprisonment for life for committing sedition under new section 9A(1)(a) of the Crimes Ordinance could only bring about great detriment to Hong Kong's free speech tradition.</div>

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
D. Sedition	
* 10. Sham Shui Po Community Association Limited Submission No. 62	(a) The proposed offence would seriously affect the freedom of the press, free flow of information and academic freedom; (b) New sections 9A(1)(b) and (2)(b), 9C and 9D(1)(b) and (2) of the Crimes Ordinance should be deleted; and (c) The scope of new section 9D(3) on the meaning of "prescribed act" should be broadened.
* 11. Mr LOK Kung-nam, Peter Submission No. 65	(a) Seditious publications should cover radio and television programmes and movies that were likely to cause the commission of an offence under new section 2, 2A or 2B of the Crimes Ordinance; and (b) Seditious publications by publicly-funded bodies should not be exempted from prosecution.
* 12. China Universities Alumni (H.K.) Association Submission No. 67	(a) Existing Hong Kong laws on sedition were sufficient for the purpose of the Bill.
* 13. Miss Alice MAK Kwai Tsing District Council Member Submission No. 68	(a) Expressed support for abolishing the existing offence of possession of seditious publication in the Bill.

Submission No. of Written submission	Organization/ individual	Views/suggestions
D. Sedition		
* 14.	Hong Kong Senior Education Workers Association Limited Submission No. 75	(a) New section 9B of the Crimes Ordinance should be made clearer to address public concern and avoid grey areas in law enforcement; and (b) The offence of sedition proposed in the Bill had been narrowed down, and would not affect academic freedom and freedom of the press.
* 15.	Mr Samuel C C WONG Submission No. 79	(a) The proposed section 9A of the Crimes Ordinance was a step in liberalization.
* 16.	Miss Sylvia SIU Submission No. 80	(a) The Bill had not been taken up the suggestion made by the Law Society of Hong Kong that there should be a high threshold of proof to establish sedition-related offences.
* 17.	The Association for the Advancement of Feminism Submission No. 85	(a) The lack of the requirement in the sedition offence for an intention to incite violence and an actual likelihood of such response to the incitement was in contravention of the Johannesburg Principles and would undermine freedom of expression; (b) The definition of a seditious publication was extremely vague and would cast the net too wide; and (c) Expressed concern that new section 9C of the Crimes Ordinance on handling seditious publication would undermine freedom of expression, as people could be prosecuted for publishing, selling, displaying or copying "seditious publication".

Submission No. of Written submission	Organization/ individual	Views/suggestions
D. Sedition		
* 18.	Hong Kong Confederation of Trade Unions Submission No. 86	<p>(a) Offence of sedition should be deleted, as there were existing laws;</p> <p>(b) Prosecuting people who made the speech or wrote the article to incite others to commit treason, subversion, secession, or to engage in violent public disorder without proof of immediate violence would undermine freedom of expression and was at variance with the Johannesburg Principles;</p> <p>(c) "Stability of the People's Republic of China" was not defined, and as such, was susceptible to be used as a political instrument to thwart legitimate dissent;</p> <p>(d) The fact that a person might be prosecuted for inciting others to engage in places outside Hong Kong, in violent public disorder that would seriously endanger the stability of the PRC would make Hong Kong people afraid to openly discuss such matters as openly supporting a Mainland strike to fight for human rights;</p> <p>(e) Offence of handling seditious publication would seriously undermine freedom of expression, as the definition of "seditious publication" was too vague and that people could be prosecuted for publishing, selling, displaying, distributing or copying "seditious publication"; and</p> <p>(f) The penalty for inciting others to engage in violent public disorder that would seriously endanger the stability of the PRC was too high.</p>

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
D. Sedition	
<div>19.</div> <div>Mr Mark Colquhoun Submission Nos. 91 and 156</div>	(a) The proposed definition of sedition should leave no room for abuse by authorities.
<div>* 20.</div> <div>Hong Kong Alliance Youth Group Submission No. 94</div>	(a)The vagueness of what constituted seditious publication would seriously undermine press freedom and freedom of expression. This situation was exacerbated by making handling seditious publication an offence.
<div>* 21.</div> <div>Amnesty International Hong Kong Section Submission No. 96</div>	<div>(a) The offence of sedition should be removed from the Bill, as mere words without proof of immediate violence should not constitute an offence;</div> <div>(b) Furthermore, the offence did not comply with the Johannesburg Principles;</div> <div>(c) The provisions relating to handling seditious publication were beyond the requirements of BL 23 and could seriously erode the right of media, journalists, academics, libraries and non-governmental organizations to collect research, publish and distribute important but controversial materials; and</div> <div>(d) The definition of a "seditious publication" was extremely vague.</div>

Submission No. of Written submission	Organization/ individual	Views/suggestions
D. Sedition		
* 22.	Justice & Peace Commission of the Hong Kong Catholic Diocese Submission No. 100	(a) Punishment for handling seditious publication was too harsh.
* 23.	Kowloon City District Resident Association Submission No. 112	(a) Sedition-related offences provided under new sections 9A to D of the Crimes Ordinance were more protective of the freedom of speech, of the press, of publication, of academic research, literary and artistic, etc. compared with existing legislation.
* 24.	Choi Shek Resident Service Centre Submission No. 114	(a) The meaning of "seditious publication" was vague; and (b) The offence of handling seditious publication would seriously affect free flow of information, freedom of the press and freedom of thought.
* 25.	Mr CHUI Pak-tai Wong Tai Sin District Council Member Submission No. 116	(a) Definition of the offence of sedition was vague. For examples, whether a person would be prosecuted for sedition even if no one responded to his/her call to take to the street to demand a Mainland leader to resign, or if he/she incited others to hold a mass demonstration which led to disruption of traffic or a strike.

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
D. Sedition	
<div>* 26.</div> <div>The Frontier Submission No. 118</div>	<div>(a) The offence of sedition should adopt Principle 6 of the Johannesburg Principles which stipulated that an expression might be punished as a threat to national security only if a government could demonstrate that the expression was intended to incite imminent violence, was likely to incite such violence and there was a direct and immediate connection between the expression and the likelihood or occurrence of such violence. However, all the prosecution was required under the Bill was to prove that a person made the speech or wrote the article with intend to urge or encourage others;</div> <div>(b) It was unclear what type of defence was available for the defendant;</div> <div>(c) New section 9A(1)(a) of the Crimes Ordinance should be deleted as there was existing legislation;</div> <div>(d) The offence of handling seditious publication in new section 9C of the Crimes Ordinance had far reaching impact on the freedom of expression and should be deleted; and</div> <div>(e) New section 9D of the Crimes Ordinance was out of step with present day circumstances and not well thought out. In respect of the latter, a case in point was section 9D(3)(c).</div>

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
D. Sedition	
* 27. Hong Kong Federation of Students Submission No. 120	(a) The offence of sedition was in contravention of the Johannesburg Principles.
* 28. Article 23 Concern Group Submission No. 121	<p>(a) The offence of sedition threatened freedom of speech;</p> <p>(b) All the prosecution needed to prove that a person had committed sedition was by the speech made or the article written with intent to urge or encourage others;</p> <p>(c) Thus, a person who made a speech at a rally to commemorate June 4, urging people to organize nationwide demonstrations to fight for the end of one party dictatorship in China, might be prosecuted for sedition;</p> <p>(d) The danger was increased by the vague way in which parts of treason, subversion and secession was defined. For example, subversion included "intimidating the Central People's Government" even where no violence was involved;</p> <p>(e) Although the offence of possession of seditious publication had been abandoned, handling seditious publication was still an offence. This meant that people could be prosecuted for publishing, selling, displaying, distributing or copying "seditious publication"; and</p> <p>(f) As sedition was a purely political offence, it should be restricted to prohibiting incitement of armed rebellion.</p>

Submission No. of Written submission	Organization/ individual	Views/suggestions
D. Sedition		
* 29.	Law Association, Hong Kong University Student Union Submission No. 122	<p>(a) The offence of sedition should strictly adhere to the Johannesburg Principles. Unless the speech was aimed at inciting imminent criminal acts and the expression was very likely to incite such criminal acts, speeches, spoken or published, should receive proper protection against prosecution;</p> <p>(b) New section 9C of the Crimes Ordinance on handling seditious publication should be deleted, as the general seditious acts were already covered in new section 9A; and</p> <p>(c) Problem similar to the one emerged from new section 2A of the Crimes Ordinance would come up again in new section 9D of the same, as the courts, in dealing with the trial for the offence of sedition, might have to interpret the Constitution of the PRC or the laws of the PRC.</p>
* 30.	The University of Hong Kong Student Union Submission No. 132	<p>(a) The proposed offence of sedition was draconian;</p> <p>(b) The absence of a public interest defence would endanger press freedom and public's right to know; and</p> <p>(c) The offence of sedition should adopt the Johannesburg Principles.</p>

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
D. Sedition	
* 31. Asian Human Rights Commission Submission No. 135	(a) The offences of sedition and handling seditious publication should be deleted, as these new offences appeared to criminalize on intention and would pose a serious threat to the freedoms of expression and the press; and (b) If the Government must insist enacting offence on sedition, it should bring the offence fully in line with the Johannesburg Principles.
* 32. The Student Union of the Hong Kong Shue Yan College Submission No. 138	(a) The offence of sedition should adopt the Johannesburg Principles; and (b) Concerned that the offence of handling seditious publication would seriously undermine academic freedom.
* 33. Hong Kong News Executives' Association Submission Nos. 142 and 153	(a) The offence of sedition should adopt the Johannesburg Principles; and (b) There was no need for the offence of handling seditious publication, which was already covered in new section 9A of the Crimes Ordinance.

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
D. Sedition	
<div>* 34.</div> <div>The Society of Publishers in Asia Submission No. 144</div>	<div>(a) There was no need for a separate offence of sedition, as the acts described in the offence were already adequately covered by provisions governing treason, secession and subversion. The act of inciting others to commit these substantive offences was already an offence under common law;</div> <div>(b) It was dangerous to criminalize an act simply in order to emphasize the seriousness of other offences, rather than because of the substance of the act itself;</div> <div>(c) Adding a non-essential criminal offence would simply add potential for abuse. The risk of abuse of the sedition offence to restrict freedom of thought and freedom of expression was simply too great;</div> <div>(d) There had not been a prosecution for sedition in the United Kingdom since 1947. Hong Kong should adopt national security legislation that accorded with the best practices of the 21st century which did not include sedition as a separate offence;</div> <div>(e) Regardless of whether sedition was included as a specific offence, there should be no offence of handling seditious publication because of its broad scope and vagueness. Notably, the offence encompassed an extremely wide range of activities and applied to individuals far removed from the actual authorship of any words that would incite others. As a result, free discussion and debate would be bound to be stifled;</div>

<div>Organization/ individual</div> <div>Submission No. of Written submission</div>	Views/suggestions
D. Sedition	
	<p>(f) Although a standard of intent had been included in the offence of handling seditious publication, this would not provide sufficient protection to the accused. According to new section 9C of the Official Secrets Ordinance, a seditious publication was defined as one that was "likely to cause the commission of treason, subversion or secession". This constituted an objective test of what a reasonable individual would consider likely. With such an objective test in place, the door was easily left open to prove intent to incite, i.e. a reasonable individual should know that a publication as seditious, and if a person still handled that publication, should he not by definition be accused of having the intention to do so?; and</p> <p>(g) If the offences of sedition and handling seditious publication could not be entirely removed from the Bill, the provisions should be amended by specifying that only behaviour for which there was a direct and immediate connection to occurrence of the offence should be subject to criminal penalty.</p>
* 35.	<div>China Labour Bulletin Submission No. 148</div> <p>(a) The offence of sedition was too vague and should be clearly defined.</p>

Submission No. of Written submission	Organization/ individual	Views/suggestions
D. Sedition		
* 36.	Hong Kong Federation of Catholic Students Submission No. 149	(a) There was no need to enact law against sedition; (b) New section 9D of the Crimes Ordinance to exclude certain acts from the offences of sedition and handling seditious publications failed to provide adequate safeguards for advocacy; and (c) The offence of handling seditious publication would seriously undermine academic freedom.
37.	The Association of the Bar of the City of New York Submission No. 150	(a) New section 9A of the Crimes Ordinance should be deleted. Where necessary, prosecutors could rely upon existing laws concerning "aiding and abetting" crimes; (b) New section 9C of the Crimes Ordinance should also be deleted for its blatant violation of freedom of the press; and (c) Although new section 9D of the Crimes Ordinance purported to provide a safe harbour for certain prescribed acts, they were vague, subjective and limited in scope. .

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
D. Sedition	
<div>38.</div> <div>P M TISMAN Submission No. 152</div>	<div>(a) There was no justification for creating an offence of sedition in the Bill, as sedition was already an offence under the common law;</div> <div>(b) Penalties for committing a sedition offence appeared to be excessive. This was exacerbated by the fact that the substantive offences of treason, subversion and secession were themselves not sufficiently clearly delineated;</div> <div>(c) The offence of sedition should adhere to the Johannesburg Principles. Unless the speech was aimed at inciting imminent criminal acts and the expression was very likely to incite such criminal acts, speeches, spoken or published, should receive proper protection against prosecution;</div> <div>(d) Provisions on handling of seditious publication were not required by BL23, and it was not clear why there was a need for these provisions in addition to the provisions on sedition;</div> <div>(e) Prescribed acts set out in new section 9D(3) of the Crimes Ordinance would inevitably not be able to cover all acts that should be excluded from the provisions on sedition;</div>

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
D. Sedition	
	<p>(f) Prescribed acts should be limited to those which could be shown to have a definite practical or functional purpose; and</p> <p>(g) In order for the prescribed acts to have any meaningful effect as safeguards, the defendants should only be required to establish they "intended" to show that the CPG or the Government of the HKSAR had been misled or to point out errors in the CPG or the Government of the HKSAR.</p>
39.	<p>Shobhakar Budhathoki Submission No. 154</p> <p>(a) The offences of sedition and handling seditious publication should be scrapped; and</p> <p>(b) If the Government must retain these sedition offences, at the very least the concept of "clear and present danger" should be incorporated in them. Principle 6 of the Johannesburg Principles would be a good reference in this regard.</p>

Submission No. of Written submission	Organization/ individual	Views/suggestions
D. Sedition		
40.	Human Rights Watch Submission No. 158	<p>(a) The offence of sedition should adopt the Johannesburg Principles;</p> <p>(b) Welcomed the exclusion of certain acts as not seditious but concerned that the offence of sedition wrongly placed the burden on the defendant to show that the only intent was criticism. More problematic, criticism that did not point to a remedy might not constitute a legal defence to a charge of sedition; and</p> <p>(c) The elimination of the offence of possessing seditious material was positive, but this might in practice mean very little should the crime of handling seditious material remain in the legislation. Mainland authorities had frequently abused anti-sedition laws to punish people in violation of their rights to free expression and belief.</p>
41.	Robert RUTKOWSKI Submission No. 159	<p>(a) The offence of sedition should adopt the Johannesburg Principles;</p> <p>(b) Welcomed the exclusion of certain acts as not seditious but concerned that the offence of sedition wrongly placed the burden on the defendant to show that the only intent was criticism. More problematic, criticism that did not point to a remedy might not constitute a legal defence to a charge of sedition; and</p> <p>(c) The elimination of the offence of possessing seditious material was positive, but this might in practice mean very little should the crime of handling seditious material remain in the legislation. Mainland authorities had frequently abused anti-sedition laws to punish people in violation of their rights to free expression and belief.</p>

<div>Submission No. of Written submission</div> <div>Organization/ individual</div>		Views/suggestions
E. Extra-territorial application		
* 1.	Professor Albert H Y CHEN Faculty of Law University of Hong Kong Submission No. 9	<p>(a) Agreed with the point made by the Hong Kong Bar Association in its submission on the Consultation Document that the extent of extra-territorial application of Chinese criminal law should be taken into account in formulating the extra-territorial scope of BL23 laws. In particular, he did not believe that the criminal laws of Hong Kong relating to BL23 should have a wider extra-territorial application than the Mainland's Chinese criminal law; and</p> <p>(b) While it seemed reasonable to subject foreign nationals who were Hong Kong permanent residents to Hong Kong laws while they were in Hong Kong, it seemed that it would not be reasonable to subject them to Hong Kong laws when they were outside PRC in circumstances where conditions for the extra-territorial application of even PRC law would not be satisfied. In other words, if a foreign national (whether or not also a Hong Kong permanent resident) who had committed an act outside PRC against Chinese national security was not subject to the criminal jurisdiction of the Chinese court when he/she travelled to the Mainland, Hong Kong was under no constitutional duty under BL23 to render such a person to the criminal jurisdiction of Hong Kong court. If this analysis was correct, then the provisions of the Bill on subversion and secession having extra-territorial application to foreign nationals who were Hong Kong permanent residents should be carefully reviewed and amended.</p>

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
E. Extra-territorial application	
* 2. Hong Kong Bar Association Submission No. 53	(a) The HKSAR Government had not answered the Bar's queries on its proposals to give extra-territorial effect to the secession offence under the Crimes Ordinance.
3. Mr Gerard McCoy, SC Submission No. 57	(a) There was nothing in ICCPR that commended the view that the Bill was not entitled to enact extra-territorial penal legislation. On the contrary, such legislation already existed. Secondly, the principles of objective territoriality emphasized the right of a State to bring criminal proceedings even if the entire criminal act occurred outside the State. One feature to be kept in mind, however, was that virtually every extradition agreement, if at all, that Hong Kong had entered into contained the commonly found so-called "political defence" exception, in which any fugitive seeking to resist extradition might claim that the basis of crime which the extradition was sought was actually political. This was a recognised bar to extradition.
* 4. Hong Kong Political Science Association Submission No. 58	(a) Expressed concern that subversion and secession would have extra-territorial application to foreign nationals who were Hong Kong permanent residents committing such acts outside Hong Kong.
* 5. Sham Shui Po Community Association Limited Submission No. 62	(a) New section 2C of the Crimes Ordinance should be deleted.

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
E. Extra-territorial application	
* 6. Hong Kong Confederation of Trade Unions Submission No. 86	(a) Opposed the extra-territorial application of the offence of treason on Chinese nationals who were also Hong Kong permanent residents; and (b) As Hong Kong permanent residents of Chinese descent and who had acquired foreign nationality were still recognized as Chinese nationals under the Chinese Nationality law, this group of people could be caught under the law of treason for what they did outside Hong Kong.
* 7. The Frontier Submission No. 118	(a) Expressed concern that some people could be caught unwittingly under new section 9A(1)(b). For example, an Indian in Hong Kong incited others to stage a violent riot in India. Unfortunately, the riot took place on the border between India and China, thereby endangering the national security of China.
8. P M TISMAN Submission No. 152	(a) The extra-territorial application of the offences of treason and secession to foreign nationals who were Hong Kong permanent residents was questionable, particularly given that permanent residency was not a permanent status for foreign nationals. This meant that if they left Hong Kong and did not return within a certain time frame, they would cease to be permanent residents. As drafted, the law would apply to such a person who had left Hong Kong for, say, over one year and did not intend to return.

Submission No. of Written submission	Organization/ individual	Views/suggestions
F. Investigation power		
1.	Committee to Protect Journalists Submission No. 4	(a) The Bill significantly expanded the investigation power of law enforcement which had no justification.
* 2.	Miss WONG Wai-yee Submission Nos. 24 and 51	(a) Questioned why the exercise of emergency investigation under the Bill must be authorized by a police officer at the rank of Chief Superintendent or above, whereas a police officer at the rank of Superintendent could enter premises to search, say, illegal firearms and drugs, without a court warrant.
* 3.	Mr WONG Chun-kong Submission No. 35	(a) Supported new section 18B of the Crimes Ordinance which provided for the exercise of emergency investigation powers by police officers at or above the rank of chief superintendent of police; and (b) To allay public concern about the wide investigation power of the Police, consideration could be given to spelling out in the Bill that save the three conditions stipulated in new section 18B(1), a police officer must first obtain a judicial warrant order before performing the act(s) stipulated in new section 18B(2).
4.	Hong Kong General Chamber of Commerce Submission No. 49	(a) The existing laws had already provided for the necessary investigation power and there was no need for any additional power.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
F. Investigation power	
* 5.	<div data-bbox="282 467 869 539">Hong Kong Bar Association Submission No. 53</div> <div data-bbox="880 467 2112 818">(a) As to the proposed power to conduct ‘warrantless searches’ under section 18B of the Crimes Ordinance for evidence concerned with the offences of treason, subversion, sedition, secession and handling seditious publication, the Bar considered that the HKSAR Government should make out a really convincing case for such a new power. While the Bar felt that a case might possibly be made out for the offences of treason, subversion and secession, it was not convinced of the case for sedition and handling seditious publication. The proposed section 18B should be tightened to ensure that an order authorizing ‘warrantless search’ be truly an exceptional event and that it went no further than necessary. Additional safeguards were proposed.</div>
* 6.	<div data-bbox="282 866 869 938">Hong Kong Journalists Association Submission No. 56</div> <div data-bbox="880 866 2112 1026">(a) Welcomed the inclusion of provisions stating that entry, search and seizure operations involving journalist materials must follow procedures set down in Part XII of the Interpretation and General Clauses Ordinance. However, there was no need for emergency powers to be incorporated at all in the Bill.</div>
* 7.	<div data-bbox="282 1074 869 1145">Hong Kong Political Science Association Submission No. 58</div> <div data-bbox="880 1074 2112 1185">(a) Expressed concern that the exercise of emergency investigation powers by police officers did not require a warrant, despite the fact that such powers would be given to police officers at or above the rank of chief superintendent of police.</div>
8.	<div data-bbox="282 1233 869 1305">Mr Wilfred LEE Submission No. 61</div> <div data-bbox="880 1233 2112 1305">(a) A search warrant must be first obtained before emergency investigation powers could be exercised by police officers at or above the rank of chief superintendent of police.</div>

Submission No. of Written submission	Organization/ individual	Views/suggestions
F. Investigation power		
* 9.	Sham Shui Po Community Association Limited Submission No. 62	(a) New section 18A of the Crimes Ordinance should be amended to the effect that the provisions of Parts I, II and IIA were also to be interpreted, applied and enforced in a manner that was consistent with the Johannesburg Principles and the Siracusa Principles; and (b) New section 18B of the Crimes Ordinance should be deleted.
* 10.	Mr LOK Kung-nam, Peter Submission No. 65	(a) Law enforcement officers should be empowered to apply to the court for an injunction against any persons if they had reasonable grounds to suspect that the individuals concerned would act to endanger the national security of the PRC.
* 11.	Miss Sylvia SIU Submission No. 80	(a) The Bill had not taken up the suggestion made by the Law Society of Hong Kong that it was unnecessary and undesirable to give an additional power and discretion to a senior police officer to enter and search premises without a warrant issued by the Magistrate.
* 12.	Hong Kong Christian Institute Submission No. 84	(a) The proposal unnecessarily widened the power of the Police.
* 13.	The Association for the Advancement of Feminism Submission No. 85	(a) The proposal unnecessarily widened the power of the Police.

Submission No. of Written submission	Organization/ individual	Views/suggestions
F. Investigation power		
* 14.	Hong Kong Confederation of Trade Unions Submission No. 86	(a) The investigation power of the Police was unnecessarily wide.
* 15.	Hong Kong Alliance Youth Group Submission No. 94	(a) Expressed concern that the exercise of emergency investigation powers by police officers did not require a warrant.
* 16.	Amnesty International Hong Kong Section Submission No. 96	(a) Concerned that police officers of or above the rank of chief superintendent could search and remove evidence from private premises if they "reasonably believe" that offences had been or were being committed; and (b) Investigation power under the Bill must be consistent with BL29 which required substantive and procedural safeguards against unnecessary police intrusion and promoted privacy.
* 17.	The Frontier Submission No. 118	(a) It was necessary for the Police to first obtain a warrant before exercising an emergency entry, search and seizure power.

Submission No. of Written submission	Organization/ individual	Views/suggestions
F. Investigation power		
* 18.	Hong Kong Federation of Students Submission No. 120	(a) It was necessary for the Police to first obtain a warrant before exercising an emergency entry, search and seizure power, so as to prevent the abuse of power by the Police.
* 19.	Article 23 Concern Group Submission No. 121	(a) It was not an onerous task to apply to the court for a warrant, which was best safeguard against abuse of investigation power of the Police.
* 20.	Law Association, Hong Kong University Student Union Submission No. 122	(a) A separate mechanism should be established to assess and review the use of investigation power by the Police independently.
* 21.	Hong Kong Polytechnic University Student Union Submission No. 123	(a) It was necessary for the Police to first obtain a warrant before exercising an emergency entry, search and seizure power. This was the best way to prevent abuse of power by the Police.
* 22.	The Law Society of Hong Kong Submission No. 125	(a) There was no justification for giving additional power to the Police to exercise an emergency entry, search and seizure power without first obtaining a warrant; and (b) Evidence obtained pursuant to an unlawful exercise of the power might still be admissible in court.

Submission No. of Written submission	Organization/ individual	Views/suggestions
F. Investigation power		
23.	Mr WONG Ying-ho, Kennedy Submission No. 129	(a) The Police should seek endorsement from the court after it had entered premises to conduct search and seizure without a warrant. If the court ruled that the Police had acted unreasonably, the Police should make compensation to the individuals concerned.
* 24.	The Joint Committee of Hong Kong Free Societies concerning the Legislation of Article 23 of the Basic Law Submission No. 134	(a) Opposed the exercise of emergency investigation powers by police officers without a warrant, despite the fact that such powers would be given to police officers at or above the rank of chief superintendent of police.
* 25.	Asian Human Rights Commission Submission No. 135	(a) There was no need to provide search and seizure powers to the Police without warrants, and should be removed from the Bill.
* 26.	Hong Kong Construction Industry Employees General union Submission No. 137	(a) The proposed investigation power was necessary.
* 27.	Mr LO Wai-ming Submission No. 143	(a) It was necessary for the Police to first obtain a warrant before exercising an emergency entry, search and seizure power.

<div> <div>Submission No. of Written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
F. Investigation power	
* 28. Hong Kong Federation of Catholic Students Submission No. 149	(a) Opposed the exercise of emergency investigation powers by police officers without a warrant, despite the fact that such powers would be given to police officers at or above the rank of chief superintendent of police.
29. P M TISMAN Submission No. 152	(a) The exercise of emergency investigation powers by police officers without a warrant was extreme and not justified; and (b) If such investigation power must retain in the Bill, then all power to authorize its use should be limited to the Commissioner or acting Commissioner of Police, at the very least a Deputy Commissioner of Police.
30. Human Rights Watch Submission No. 158	(a) Allowing senior police officers to enter premises to conduct search and seizure without a warrant was a serious break with Hong Kong legal tradition; and (b) Any such authority should be reserved for the Judiciary and permitted only in the narrowest circumstances.
31. Robert RUTKOWSKI Submission No. 159	(a) Allowing senior police officers to enter premises to conduct search and seizure without a warrant was a serious break with Hong Kong legal tradition; and (b) Any such authority should be reserved for the Judiciary and permitted only in the narrowest circumstances.

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
G. Consent of the Secretary for Justice for instituting prosecutions; removal of existing time limits for prosecution against treason or sedition-related offences	
* 1. Hong Kong Bar Association Submission No. 53	(a) There should be a limitation period for the prosecution of the offence of treason, a political crime; and (b) Prosecution for offences under Parts I and II of the Crimes Ordinance should only be instituted with the personal and non-delegable consent of the Secretary for Justice (S for J).
* 2. Hong Kong Journalists Association Submission No. 56	(a) The removal of existing time limits could have a significant chilling effect on the media; and (b) There should be appropriate time limits for prosecution against treason and sedition.
* 3. Hong Kong Political Science Association Submission No. 58	(a) There should be time limits for prosecution against treason and sedition.
* 4. Miss Alice MAK Kwai Tsing District Council Member Submission No. 68	(a) Opposed the removal of the current time limits for prosecutions against treason or sedition.

<div> <div>Organization/ individual</div> <div>Submission No. of written submission</div> </div>	Views/suggestions
G. Consent of the Secretary for Justice for instituting prosecutions; removal of existing time limits for prosecution against treason or sedition-related offences	
* 5. The Association for the Advancement of Feminism Submission No. 85	(a) There should be time limits for prosecution against treason, sedition, subversion and secession;
* 6. Hong Kong Confederation of Trade Unions Submission No. 86	(a) There should be time limits for prosecution against treason and sedition.
* 7. Mr WONG Man-cheung Submission No. 87	(a) There should be time limits for prosecution against treason and sedition.
* 8. Hong Kong Human Rights Monitor	(a) There should be time limits for prosecution against treason and sedition.
* 9. Mr CHUI Pak-tai Wong Tai Sin District Council Member Submission No. 116	(a) There should be time limits for prosecution against sedition-related offences.

<div> <div>Submission No. of written submission</div> <div>Organization/ individual</div> </div>	Views/suggestions
G. Consent of the Secretary for Justice for instituting prosecutions; removal of existing time limits for prosecution against treason or sedition-related offences	
* 10. The Frontier Submission No. 118	(a) There should be time limits for prosecution against treason and sedition-related offences; and (b) Prosecution for an offence under any provision of Part I or II of the Bill could not be instituted except by, or with the written consent of, S for J lacked objectivity, as S for J was a principal official under the accountability system.
* 11. Article 23 Concern Group Submission No. 121	(a) The existing safeguard of a three years' time limit for prosecutions against reason under section 4 of the Crimes Ordinance should be retained, so as, to ensure that the offence would not be a tool for political persecution; and (b) The existing safeguard that no prosecution for sedition should be begun except within six months after the offence was committed under section 11 of the Crimes Ordinance should be retained.
* 12. The Joint Committee of Hong Kong Free Societies concerning the Legislation of Article 23 of the Basic Law Submission No. 134	(a) There should be time limits for prosecution against sedition-related offences.

<div> <div>Organization/ individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
G. Consent of the Secretary for Justice for instituting prosecutions; removal of existing time limits for prosecution against treason or sedition-related offences	
* 13. Hong Kong News Executives' Association Submission Nos. 142 and 153	(a) The existing time limit for prosecution against sedition-related offences should be retained.
* 14. The Society of Publishers in Asia Submission No. 144	(a) The existing time limit for prosecution against sedition-related offences should be retained.
* 15. China Labour Bulletin Submission No. 148	(a) The existing time limit for prosecution against treason should be retained, so as, to ensure that the offence would not be a tool for political persecution; and (b) The existing time limit for prosecution against sedition-related offences should be retained.

Submission No. of Written submission		Organization/ individual	Views/suggestions
H. Trial by jury			
*	1.	Hong Kong Bar Association Submission No. 53	(a) Supported making the new offences in the Crimes Ordinance to be tried by a jury and giving the option of trial by jury for those offences that did not carry the maximum penalty of life imprisonment.

3. Amendments to the Official Secrets Ordinance

Submission No. of Written submission	Organization/ Individual	Views/suggestions
A. Protection of information and offence of unauthorized disclosure of protected information		
1.	Committee to Protect Journalists Submission No. 4	<p>(a) Strongly opposed new section 16A(1) and (2) of the Official Secrets Ordinance which expanded the crime of theft of state secrets. Notably, the wide range of material that could be construed as "within the responsibility of the Central Authorities" would act to chill disclosures regarding relations between the Governments of the HKSAR and PRC. Further, what was deemed as "likely to endanger national security" was so malleable as to encompass anything the Government wished to censor;</p> <p>(b) The Bill failed to make provision for a consideration of public interest in evaluating whether a disclosure was damaging; and</p> <p>(c) Any legislation covering the theft of state secrets should include a defence for information disclosed in the public interest.</p>
2.	Heung Yee Kuk New Territories Submission No. 8	<p>(a) Agreed that freedom of the press and the free flow of information would not be impeded by the enactment of the Bill, but considered it necessary that the word "damaging" as referred to in new section 16A(2) of the Official Secrets Ordinance should be clearly defined.</p>

Submission No. of Written submission	Organization/ Individual	Views/suggestions
A. Protection of information and offence of unauthorized disclosure of protected information		
* 3.	Professor Albert H Y CHEN Faculty of Law University of Hong Kong Submission No. 9	(a) The proposed amendments to the Official Secrets Ordinance in the Bill, taken as a whole, were reasonable and consistent with the spirit of "one country, two systems". However, it remained to be seen whether the "public interest" and "prior publication" defences advocated by the legal and journalistic communities in Hong Kong would be added to the Bill during its Committee Stage; and (b) Supported the introduction of a limited version of public interest defence drafted along the lines of section 30(3) of the Prevention of Bribery Ordinance. Public interest defence, which had been recognized in the Canadian Security of Information Act, would enable the courts to weigh the damage caused by the disclosure against the public benefit of such disclosure.
* 4.	Hong Kong Youth Association Submission No. 12	(a) Opposed the use of public interest as a defence for authorized disclosure of protected information.
* 5.	The Hong Kong Island Federation Submission No. 19	(a) Strongly disagreed to include public interest as a defence for unauthorized disclosure of protected information, as disclosure of such information would only be penalized when it endangered national security, which was defined as safeguarding the territorial integrity and independence of PRC.

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Protection of information and offence of unauthorized disclosure of protected information	
* 6. The Hong Kong Southern District Alliance Submission No. 21	(a) Disagreed to include public interest as a defence for unauthorized disclosure of protected information, as disclosure of such information would only be penalized when it endangered national security, which was defined as the safeguarding the territorial integrity and the independence of PRC.
* 7. Hong Kong Bar Association Submission No. 53	(a) The HKSAR Government had not provided a rationale for protecting information relating to Hong Kong affairs which were within the responsibilities of the Central Authorities. The situation before 1997 was entirely different and of no relevance to the discussion; (b) The HKSAR Government must define in the Bill the areas to be covered by the proposed new category of protected information with some precision to avoid confusion; (c) Some commercial and economic information would be caught by the new category of protected information. So would information of political significance and constitutional importance;

<div>Organization/ Individual</div> <div>Submission No. of Written submission</div>	Views/suggestions
A. Protection of information and offence of unauthorized disclosure of protected information	
	<p>(d) There was no need for the proposed offence of using protected information acquired as a result of illegal access. The public policy was served already under the existing law by prosecuting the offender who accessed the information illegally and, where necessary, by seeking an injunction to restore the accessed information to the Government and restraining further publication (if the information came into the public domain). It was wrong to equate information held by the HKSAR Government with private property, so that “handling” it by a third party became a criminal offence. The proposed offence would inhibit the free flow of information about Government. On a practical level, this provision was capable of being abused to plug “leaks” or to compel reporters to disclose their sources; and</p> <p>(e) Questioned whether the proposed amendment to section 18(2) of the Official Secrets Ordinance extending the scope of the offence of disclosing unauthorized information to cover disclosures of information from former public servants and former government contractors was a ‘technical’ amendment. The amendment had not been made in the United Kingdom to the equivalent section in the Official Secrets Act 1989. The Bar could see that the public interest did not necessarily require the prosecution of the publishers of information from such sources given that there were adequate civil remedies open to the Government to prevent the dissemination of such information.</p>

<div> <div>Submission No. of Written submission</div> <div>Organization/ Individual</div> </div>	Views/suggestions
A. Protection of information and offence of unauthorized disclosure of protected information	
<div>* 8.</div> <div>Hong Kong Journalists Association Submission No. 56</div>	<div>(a) Definition of the category of information relating to relations between the Central Authorities and the HKSAR remained vague. To rectify such, clear terms must be made on what matters were covered in the offence of unauthorized disclosure of official secrets. A reference to the likelihood of endangering national security was not sufficient;</div> <div>(b) Offence of disclosure of information acquired by illegal means was also problematic. For instance, the definition of "illegal access" would not provide any real protection to journalists or members of the public who might not be aware that a particular document or piece of information might be secret. This was despite the offence being limited to access through theft, robbery, burglary, hacking and bribery. Indeed, the offence appeared to go beyond the spirit of the Official Secrets Ordinance which was to deal with the passing of official information from a government servant or contractor to another person. Under the Bill, the offence would cover the passing of official information not from a government servant or contractor to another person;</div> <div>(c) Furthermore, police investigation might involve efforts to obtain the name of the source or sources of information. This might place journalists in a very difficult position, and might lead to prosecution action being taken against them for refusal to disclose sources;</div>

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		<p>(d) If the Government was to retain the two new offences of unauthorized disclosure of official secrets and the disclosure of information acquired by illegal means, it must provide sufficient protection against abuse, by ensuring that they complied fully with principles 13 and 15 of the Johannesburg Principles. The Government should therefore incorporate a proper public interest defence in the Official Secrets Ordinance along the lines that "It shall be a defence for a person charged with an offence under this Ordinance to prove that the disclosure or retention of the information, document or other article was in the public interest."; and</p> <p>(e) It should also be a defence for a journalist to argue that the information was already in the public domain, whether in Hong Kong, the Mainland or elsewhere. The Government should therefore incorporate a prior publication defence in the Official Secrets Ordinance along the lines that "A person does not commit an offence under this Ordinance in respect of information which before the time of the alleged offence had become available to the public or a section of the public whether in Hong Kong or elsewhere."</p>

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A. Protection of information and offence of unauthorized disclosure of protected information	
<div>* 9.</div> <div>Hong Kong Political Science Association Submission No. 58</div>	<div>(a) The confidentiality requirements relating to official secrets should not be extended to non-officials;</div> <div>(b) Given the chilling effect that such secrecy laws might have on reportage and academic research, the law should err on the side of free speech;</div> <div>(c) Expression such as "information related to Hong Kong affairs within the responsibility of the Central Authorities" was both overboard and vague;</div> <div>(d) There should be public interest and prior publication defences for unauthorized disclosure of official secrets; and</div> <div>(e) No new crime should be created for acquiring information which belonged to a category protected from disclosure under the Official Secrets Ordinance by illegal means, as such act could be dealt under the existing laws regarding theft.</div>

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A. Protection of information and offence of unauthorized disclosure of protected information	
* 10. Sham Shui Po Community Association Limited Submission No. 62	(a) New section 12A of the Official Secrets Ordinance should be amended to the effect that the provision of Part III was also to be interpreted, applied and enforced in a manner that was consistent with the Johannesburg Principles and the Siracusa Principles; and (b) Oppose the creation of new class of protected information and new offence for unauthorized disclosure of protected information acquired by illegal means. New section 16A and proposed amendments to section 18 of the Official Secrets Ordinance should be deleted.
* 11. Hong Kong Senior Education Workers Association Limited Submission No. 75	(a) The proposals were reasonable and would not undermine freedom of the press.
* 12. Mr WONG Chat-chor, Samuel Submission No. 79	(a) There should be a thorough review of the Official Secrets Ordinance to bring it in line with the standards set out in ICCPR and Principles 15 and 16 of the Johannesburg Principles.
* 13. Hong Kong Culture Association Limited Submission No. 83	(a) Disagreed that there should be a public interest defence for unauthorized disclosure of official secrets which would endanger national security.

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A. Protection of information and offence of unauthorized disclosure of protected information	
* 14. Hong Kong Christian Institute Submission No. 84	(a) Concerned that after the enactment of the Bill, an indirect form of censorship would be imposed on the media; and (b) The Government had not provided a rationale for protecting information relating to Hong Kong affairs concerning the HKSAR for which the Central Authorities were responsible under the Basic Law.
* 15. The Association for the Advancement of Feminism Submission No. 85	(a) The definition of protected information was too vague; (b) It was unclear what kind of information would fall within the meaning of "information relating to Hong Kong affairs concerning the HKSAR for which the Central Authorities were responsible under the Basic Law"; (c) The Basic Law only prohibited stealing state secrets and did not prohibit the disclosure of the said information; (d) There should be a public interest defence; and (e) Once information had been made generally available, there was no further justification to prohibit disclosure from the public.

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* 16.	Hong Kong Confederation of Trade Unions Submission No. 86	(a) The addition of a new category of protected information under new section 16A of the Official Secrets Ordinance would pose a threat to press freedom and public right of access to government information; (b) The proposal of making it an offence to disclose information would be in contravention of the common law principle on theft; and (c) There should be a public interest defence.
* 17.	Hong Kong Alliance Youth Group Submission No. 94	(a) The addition of a new category of protected information under new section 16A of the Official Secrets Ordinance would pose a threat to press freedom and public right of access to government information.
* 18.	Amnesty International Hong Kong Section Submission No. 96	(a) The new category of protected information under new section 16A of the Official Secrets Ordinance was both sweeping and vague, and would pose a threat to press freedom and public right of access to government information; and (b) There should be a public interest defence for revealing information.

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Protection of information and offence of unauthorized disclosure of protected information	
* 19. Justice & Peace Commission of the Hong Kong Catholic Diocese Submission No. 100	(a) Concerned that the Bill, if enacted, would have a chilling effect on the press to report matters sensitive to the Mainland authorities; and (b) There should be a public interest defence.
* 20. Democratic Party Submission No. 101	(a) There should be a public interest defence.
* 21. Hong Kong Human Rights Monitor	(a) The new category of protected information under new section 16A of the Official Secrets Ordinance was both sweeping and vague, and would pose a threat to press freedom and public right of access to government information.
* 22. Mr CHUI Pak-tai Wong Tai Sin District Council Member Submission No. 116	(a) There should be a public interest defence.

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A. Protection of information and offence of unauthorized disclosure of protected information	
* 23. The Frontier Submission No. 118	(a) The proposed amendments to the Official Secrets Ordinance were outside the requirements of BL23; (b) The new category of protected information under new section 16A of the Official Secrets Ordinance was both sweeping and vague, and would pose a threat to press freedom and public right of access to government information; and (c) There should be public interest and prior publication defences.
* 24. Hong Kong Federation of Students Submission No. 120	(a) Provisions prohibiting unauthorized disclosure of protected information obtained by illegal access would undermine press freedom; and (b) There should be a public interest defence.

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<div>* 25.</div> <div>Article 23 Concern Group Submission No. 121</div>	<div>(a) The Official Secrets Ordinance threatened the freedom of information and the press freedom because there was no public interest or prior publication defence;</div> <div>(b) Open and accountable government required maximum disclosure of government information. Restriction should go no further than was necessary and must be clearly defined. Compelling justification was required to suppress information that was already in the public domain, or where the disclosure was in the public interest. The Official Secrets Ordinance did not meet these criteria;</div> <div>(c) The offence under new section 16A of the Official Secrets Ordinance was both sweeping and vague, and could cover many different areas of interaction between Hong Kong and the Mainland, and would include commercial and economic information. The degree of harm required to show damaging effect was unclear;</div> <div>(d) The offence under new section 18(2)(d) and 18(5A) of the Official Secrets Ordinance would not remove the difficulties faced by the press. Unless the information was disclosed through official channels, there was always a possibility that it was acquired by someone by illegal access. It would be hard to refute the Government's allegations, and the information which could be published would depend on the whim of the Government;</div>

<div>Organization/ Individual</div> <div>Submission No. of Written submission</div>	Views/suggestions
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	<p>(e) In this connection, the following amendments were essential -</p> <ul style="list-style-type: none"> (i) protected information should be defined by content and not by source or class; (ii) damaging disclosure should require proof of a strong likelihood of specified harm or clear and present danger of harm, which flowed from content rather than from the nature or class of information disclosed; (iii) honest beliefs that the information was not protected or that the information was lawfully acquired should be a defence; (iv) once information had been made generally available, there was no further justification to prohibit disclosure from the public; (v) there should be a public interest defence; (vi) national security should be defined to explicitly exclude protection of the Government from embarrassment or exposure of wrongdoing or concealment about the proper functioning of public institutions; and (vii) the entire Official Secrets Ordinance should be reviewed in the context of a public right of access to government information, and a Freedom to Information Ordinance should be enacted.

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Protection of information and offence of unauthorized disclosure of protected information	
* 26. Law Association, Hong Kong University Student Union Submission No. 122	(a) The new category of protected information specified in new section 16A of the Official Secrets Ordinance should be clearly defined; and (b) Notwithstanding the fact that a piece of information might be obtained by illegal means, it might be in the public interest to publish it. There should also be an exemption made for information which could in fact be obtained in the public domain.
* 27. Hong Kong Polytechnic University Student Union Submission No. 123	(a) The proposals would lead to self-censorship of the media and seriously affect press freedom; and (b) There should be a public interest defence.
* 28. The Law Society of Hong Kong Submission No. 125	(a) The expression "endangers the interests of the People's Republic of China or Hong Kong elsewhere" referred to in section 16 of the Official Secrets Ordinance should be clarified and tightened up.

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A. Protection of information and offence of unauthorized disclosure of protected information	
* 29. The Hong Kong Executive, Administrative & Clerical Staff Association Submission No. 126	(a) There was no need for a public interest defence for the following reasons - <ul style="list-style-type: none"> (i) there were adequate safeguards provided in the Basic Law, (ii) majority of common law jurisdictions had enacted legislation against unauthorized disclosure of state secrets; (iii) introducing a public interest defence would create a grey area in the law; and (iv) the question of whether a public interest defence should be introduced in the Official Secrets Ordinance had been thoroughly debated and dispensed with by the Legislative Council prior to Reunification.
30. Mr WONG Ying-ho, Kennedy Submission No. 129	(b) There should be a public interest defence.
* 31. The Hong Kong Eastern District Community Association Submission No. 130	(b) There should not be a public interest defence.
* 32. The University of Hong Kong Student Union Submission No. 132	(a) There should be a public interest defence.

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Protection of information and offence of unauthorized disclosure of protected information	
* 33. The Joint Committee of Hong Kong Free Societies concerning the Legislation of Article 23 of the Basic Law Submission No. 134	(a) There should be a public interest defence.
* 34. Asian Human Rights Commission Submission No. 135	(a) The new offences created for the unauthorized disclosure of information related to Hong Kong affairs within the responsibilities of the Central Authorities and the disclosure of information acquired by illegal means would inhibit free flow of inflow of information, and should be deleted; and (b) If the Government must retain these two new offences, it must provide sufficient protection against abuse, such as the defence of public interest and public availability of the information.
* 35. Hong Kong News Executives' Association Submission Nos. 142 and 153	(a) The offence under new section 18(2)(d) and 18(5A) of the Official Secrets Ordinance would not remove the difficulties faced by the press. Unless the information was disclosed through official channels, there was always a possibility that it was acquired by someone by illegal access. It would be hard to refute the Government's allegations, and the information which could be published would depend on the whim of the Government; and (b) There should be defences of public interest and public availability of the information.

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Protection of information and offence of unauthorized disclosure of protected information	
<div>* 36.</div> <div>The Society of Publishers in Asia Submission No. 144</div>	<div>(a) There was no need to create a new offence for the unauthorized disclosure of information related to Hong Kong affairs within the responsibilities of the Central Authorities, which was also ambiguous and unclear;</div> <div>(b) It was understandable that disclosure of information relating to such national security issues as defence or international relations, should be restricted, and which in fact had been covered by existing legislation, there was therefore no justification for covering any other information under the new offence;</div> <div>(c) The public had the right to know the affairs which fell within the responsibilities of the Central Authorities under the Basic Law, such as the appointment of the Chief Executive and principal officials, the election participation process for the National People's Congress and relations between Beijing and Hong Kong;</div>

<div>Organization/ Individual</div> <div>Submission No. of Written submission</div>	Views/suggestions
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	<p>(d) There was also no need for the creation of the offence on the disclosure of information acquired by illegal mean. Applying this provision to indirectly obtained information would criminalize actions by an individual several steps removed from the commission of any actual theft of state secrets. It would place an unreasonable burden on that person to attempt to determine the original source of information. As a practical matter, journalists would always have to treat information obtained anonymously as information that could have been obtained illegally. Moreover, it was deemed unethical for news reporters to disclose the sources of their information;</p> <p>(e) Expressed concern that the Bill expanded the list of people on the whom the duty of confidentiality was imposed, i.e. the Bill would include all present and former public servants or government contractors and would also add agents and informants who provided information to the Police; and</p> <p>(f) There should be defences of public interest and public availability of the information</p>
* 37.	<p>China Labour Bulletin Submission No. 148</p> <p>(a) The definition of what type of information could endanger national security remained unclear, and needed to be narrowed down; and</p> <p>(b) There should be a public interest defence.</p>

Submission No. of Written submission	Organization/ Individual	Views/suggestions
A. Protection of information and offence of unauthorized disclosure of protected information		
* 38.	Hong Kong Federation of Catholic Students Submission No. 149	(a) There was no need for creating the new offence on the disclosure of information acquired by illegal mean; and (b) There should be a public interest defence.
39.	The Association of the Bar of the City of New York Submission No. 150	(a) The offence under new section 16A of the Official Secrets Ordinance was both sweeping and vague.
40.	P M TISMAN Submission No. 152	(a) Proposed amendments to section 18 of the Official Secrets Ordinance to provide that it was an offence to make a damaging disclosure of protected information which had been obtained by illegal access were still fraught with difficulties; (b) Although the means by which the information had been obtained might be unlawful, it should not automatically follow that the information so obtained should be protected as an official secret, a damaging disclosure of which should be an offence;

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
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	<p>(c) Furthermore, although under section 18(1) of the Official Secrets Ordinance it was necessary to show that a person knew or had reasonable cause to believe that the information was protected against disclosure and that it had come into his possession by illegal access, as the information might have been obtained by the defendant only indirectly, he might in fact not be aware that the information had been acquired unlawfully and yet he might still be prosecuted for making a damaging disclosure;</p> <p>(d) The new category of protected information specified in new section 16A of the Official Secrets Ordinance should be clearly defined;</p> <p>(e) There should be a defence of public interest so that no offence would be committed if the public interest in knowing the information outweighed the harm done or likely to be done by disclosure; and</p> <p>(f) Certain existing sections of the Official Secrets Ordinance contained references that appeared to be obsolete, and should be adapted to bring them up-to-date.</p>
41.	<p>Shobhakar Budhathoki Submission No. 154</p> <p>(a) The lack of clear definition of protected information relating to affairs concerning the HKSAR for which the Central Authorities were responsible under the Basic Law would cast the net too wide and could result in significant self-censorship; and</p> <p>(b) Public interest and prior publication defences should be provided to protect the public's right to know.</p>

<div> <div>Submission No. of Written submission</div> <div>Organization/ Individual</div> </div>	Views/suggestions
A. Protection of information and offence of unauthorized disclosure of protected information	
<div>* 42.</div> <div> Professor Johannes CHAN Faculty of Law University of Hong Kong Submission No. 155 </div>	<div>(a) The amendments to the Official Secrets Ordinance were not really required by BL23;</div> <div>(b) Protected information should be defined by content and not by source or class;</div> <div>(c) Damaging disclosure should require proof of a strong likelihood of specified harm or clear and present danger of harm, of which the harm should flow from the content of the information disclosed rather than from the nature or class of information disclosed;</div> <div>(d) Subjective mens rea should be required so that it would be a defence if one honestly believed that the information was not protected or that the information was legally acquired;</div> <div>(e) Once information had been made generally available, by whatever means, whether lawful or not, there was no further justification to prohibit disclosure from the public. Civil action of breach of confidence was sufficient to protect whatever Government interest there was against further disclosure of the information concerned;</div> <div>(f) There should be a defence of public interest or a defence of reasonable excuse so that no offence would be committed if the public interest in knowing the information outweighed the harm done or likely to be done by disclosure;</div>

<div> <div>Submission No. of Written submission</div> <div>Organization/ Individual</div> </div>	Views/suggestions
A. Protection of information and offence of unauthorized disclosure of protected information	
	<p>(g) The definition of national security should be further defined to expressly exclude protection of the Government from embarrassment or exposure of wrongdoing or concealment of information about the proper functioning of public institutions;</p> <p>(h) Protection of national security should not be used as a reason to compel a journalist to reveal a confidential source;</p> <p>(i) A time limit for prosecution, say, six months, should be imposed; and</p> <p>(j) The entire Official Secrets Ordinance should be reviewed in the context of a public right of access to government information, and a Freedom to Information Ordinance should be enacted to replace the current administrative regime governing the constitutional right of access to government information.</p>
43.	<p>Human Rights Watch Submission No. 158</p> <p>(a) The amendments to the Official Secrets Ordinance would have a chilling effect on journalists and scholars writing on foreign policy and defense issues. For example, information about relations between the Governments of the HKSAR and the Mainland could be defined as a "state secret";</p> <p>(b) Any law on official secrets should conform to the Johannesburg Principles; and</p> <p>(c) There should be a public interest defence.</p>

Submission No. of Written submission		Organization/ Individual	Views/suggestions
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44.	Robert RUTKOWSKI Submission No. 159		(a) The amendments to the Official Secrets Ordinance would have a chilling effect on journalists and scholars writing on foreign policy and defense issues. For example, information about relations between the Governments of the HKSAR and the Mainland could be defined as a "state secret"; (b) Any law on official secrets should conform to the Johannesburg Principles; and (c) There should be a public interest defence.

4. Amendments to the Societies Ordinance

Submission No. of Written submission	Organization/ Individual	Views/suggestions
A. Proscription of local organizations		
1.	Heung Yee Kuk New Territories Submission No. 8	<p>(a) Supported new section 8D(5) of the Societies Ordinance in that any holding of proceedings in camera would need to be applied by S for J and that the court must be satisfied that the publication of any evidence to be given at an open proceedings might prejudice national security; and</p> <p>(b) New section 8E(3)(a) and (b) of the Societies Ordinance should be combined to read "法庭對該等上訴的聆訊按一般刑事審訊的上訴程序進行，法官可在顧及國家安全及有需要的情況下，根據第 8D(5)條有權裁定是否需要進行閉門聆訊,但並不同秘密聆訊。".</p>

<div> <div>Submission No. of Written submission</div> <div>Organization/ Individual</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 2. Professor Albert H Y CHEN Faculty of Law University of Hong Kong Submission No. 9	<p>(a) New section 8A(1) of the Societies Ordinance was reasonable, if its intent was to send a signal to deter people from making use of Hong Kong's free and open environment as a base against national security and territorial integrity. Check on the proper exercising of power by the Secretary for Security (S for S) to proscribe a local organization would, however, be placed heavily on the court;</p> <p>(b) Rules for appeals to be made by the Chief Justice (CJ) under the new section 8E of the Societies Ordinance were acceptable. However, in-depth studies and wide public consultation should be conducted before implementation of these rules; and</p> <p>(c) The fact that there would be two systems of appeals if the Bill was enacted (i.e. section 8(7) of the Societies Ordinance provided for a right to appeal to the Chief Executive in Council (CE in Council) and new section 8D of the Societies Ordinance provided for the same to the Court of First Instance) would be a significant anomaly in the law unless the problem was addressed in the Committee Stage of the Bill.</p>
* 3. Hong Kong Youth Association Submission No. 12	<p>(a) The holding of proceedings in the absence of the appellant and any legal representative appointed by him under new section 8E of the Societies Ordinance was reasonable, as CJ would be empowered by new section 8E(4) to make rule to appoint a legal practitioner to act in the interests of the appellant.</p>

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
<div>* 4.</div> <div>New Century Forum Submission No. 13</div>	<div>(a) Supported new section 8A of the Societies Ordinance empowering S for S to proscribe any local organization that endangered national security. Nevertheless, to prevent queries from the public as to whether S for S had adequate justification to proscribe a local organization, consideration should be given to setting up a mechanism to determine whether a certain local organization should be proscribed in accordance with the requirements set out in subsection (2) of new section 8A. Reference could be drawn from the mechanism set out in section 360B of the Companies Ordinance so that the power of proscription would rest with the CE in Council;</div> <div>(b) New section 8D of the Societies Ordinance which provided that any person aggrieved by a decision of S for S to proscribe an organization would be able to appeal to the Court of First Instance against the proscription was more open and transparent than the existing arrangement of appealing to the CE in Council against the cancellation of a society's registration or prohibition of a society's operation; and</div> <div>(c) The Bill should clearly spell out the rights of the appellant and the circumstances under which a hearing would be held in the absence of the appellant or his/her legal representative.</div>

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 5. Federation of Hong Kong Kowloon New Territories Hawker Associations Submission No. 17	(a) New section 8D(5) of the Societies Ordinance allowing the court, upon application by S for J, to exclude all or any portion of the public from attending any part of the hearing if it was satisfied that to do otherwise would prejudice national security was necessary; and (b) The holding of proceedings in the absence of the appellant and any legal representative appointed by him under new section 8E of the Societies Ordinance was reasonable, as CJ would be empowered by new section 8E(4) to make rule to appoint a legal practitioner to act in the interests of the appellant.
* 6. The Association of the Hong Kong Central and Western District Limited Submission No. 20	(a) New section 8D(5) of the Societies Ordinance allowing the court, upon application by S for J, to exclude all or any portion of the public from attending any part of the hearing if it was satisfied that to do otherwise would prejudice national security was necessary.

<div> <div>Organization/ Individual</div> <div>Submission No. of written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 7. Mr WONG Chun-kong Submission No. 35	<p>(a) New section 8D(5) of the Societies Ordinance allowing the court, upon application by S for J, to exclude all or any portion of the public from attending any part of the hearing if it was satisfied that to do otherwise would prejudice national security was necessary; and</p> <p>(b) New section 8E(3) of the Societies Ordinance allowing the holding of proceedings in the absence of the appellant and any legal representative appointed by him was not unusual, as it was also practiced in other common law jurisdictions. Moreover. Such a section would apply to the lodgement, hearing and withdrawal of appeals under new section 8D and the rules for appeals to be made by CJ were subject to the scrutiny of the Legislative Council.</p>
8. Mr YEUNG Wai-sing, member of Eastern District Council Submission No. 42	<p>(a) Provisions were not made for proscription of local organizations which had subordinate Mainland organizations carrying out activities in the Mainland that would endanger national security. This would create a loophole allowing organizations such as those advocating for the independence of Taiwan, or Tibet, to establish to base in Hong Kong.</p>
9. Hong Kong General Chamber of Commerce Submission No. 49	<p>(a) To allay public concern that the appeal against the proscription could be heard in the absence of the appellant or his/her legal representative, rule for appeals to be made by CJ should be made available as soon as possible so that their applicability could be considered.</p>

<div> <div>Submission No. of written submission</div> <div>Organization/ Individual</div> </div>	Views/suggestions
A. Proscription of local organizations	
<div>* 10.</div> <div>Hong Kong Bar Association Submission No. 53</div>	<div>(a) The proposed section 8A(2)(c) of the Societies Ordinance, which made it a condition precedent to appropriate action an act done in the Mainland, would dilute the principle of “one country, two systems” and might be inconsistent with BL4, which obliged the HKSAR to safeguard the rights and freedoms of the residents of the Region in accordance with the Basic Law. S for S was supposed to exercise an independent judgment on facts related to national security. There was no justification for the link to a state of affairs in the Mainland;</div> <div>(b) The definition of “local organization” in the proposed section 8A(5) of the Societies Ordinance was wide, which included limited companies, unincorporated trusts and credit unions, which were not at present under the scheme of control of the Societies Ordinance;</div> <div>(c) New section 8A(3) of the Societies Ordinance, which provided for a certificate to be conclusive of proof of the banning of a Mainland organization, should relate only to the administrative act. S for S should be required to prove the relevant act of the proscription in the Mainland on any appeal as a fact in the ordinary way and should not be allowed to rely only on the certificate;</div>

<div> <div>Submission No. of written submission</div> <div>Organization/ Individual</div> </div>	Views/suggestions
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	<p>(d) The HKSAR Government should confirm that an appeal to the Court of First Instance against a decision to proscribe a local organization was a civil cause or matter within the meaning of section 13(1)(a) of the High Court Ordinance so that there could be further appeals to the Court of Appeal and the Court of Final Appeal;</p> <p>(e) Conferring a right of appeal to the Court of First Instance directly engaged BL35, which guaranteed the rights of access to the courts and to choose a lawyer for timely protection of lawful rights and interests or for representation in the courts. If rules made under the proposed section 8E of the Societies Ordinance provided for the exclusion of the appellant and his lawyer from the appeal proceedings and the appointment of a legal representative to represent the appellant's interests in their stead, then it was the Bar's belief that such rules would be unconstitutional as being inconsistent with BL35. The situations in Canada and the United Kingdom were not sure guides to the constitutionality of a law in Hong Kong since those jurisdictions did not have a constitutional guarantee equivalent to BL35. The HKSAR Government should rather devise court procedures that would enable the person affected and his lawyer to have access to all the materials relied on to support the administrative act of proscription. Giving effect to BL35 would not affect the common law rules on public interest immunity or the ability of the court to sit in camera; and</p>

Submission No. of written submission	Organization/ Individual	Views/suggestions
A. Proscription of local organizations		
		(f) Rules that limited access to a court should be in the form of primary legislation. CJ should not be placed in the invidious position as the maker of such rules, which would almost certainly be subject to a constitutional challenge in due course.
* 11.	Hong Kong Journalists Association Submission No. 56	<p>(a) Proscription of organizations should be deleted from the Bill, as it was not stipulated in BL23 and at variance with the Johannesburg Principles and the common law which punished individuals and not groups; and</p> <p>(b) Expressed concern about the provisions of allowing the exclusion of all or any portion of the public to attend a court hearing on the ground that the publication of any evidence to be given during the court proceedings might prejudice national security and of allowing the court to hear an appeal against proscription in the absence of the appellant and his/her legal representative. On the contrary, the Government should ensure maximum openness for court hearings, to ensure that an appellant would receive a fair trial. It should also allow for sufficient appeal channels in case a decision was made to exclude individuals from a court case.</p>

<div> <div>Organization/ Individual</div> <div>Submission No. of written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 12. Hong Kong Political Science Association Submission No. 58	<p>(a) Proscription of organizations would seriously undermine the "one country, two systems" principle by applying Mainland laws and administrative decisions to Hong Kong;</p> <p>(b) The scope of appeal against the proscription was narrow. Presumably, it was confined to whether S for S had correctly applied the law in the proscription and whether the evidence was sufficient to prove that the organization in question fell within new section 8A(2)(a), (b) or (c) of the Societies Ordinance, without giving due regard to whether the proscription was correct in all respects; and</p> <p>(c) The appeal process involving closed hearings was inconsistent with Hong Kong's human rights tradition. The appellant might be denied the "full particulars of the reasons for the proscription" and access to evidence and the use of existing counsel.</p>
* 13. Hong Kong Association of Falun Dafa Submission No. 59	<p>(a) Proscription of organizations was outside the requirements of BL23;</p> <p>(b) The proscription was a vehicle for the Mainland authorities to legally suppress those organizations which it wished to eradicate; and</p> <p>(c) The Bill would give the Government powers to investigate any organizations which did not carry out any illegal activities in Hong Kong.</p>

<div> <div>Organization/ Individual</div> <div>Submission No. of written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
<div>14.</div> <div>Mr Wilfred LEE</div> <div>Submission No. 61</div>	<div>(a) As the Bill made no provision to proscribe a local organization which was the parent organization of a subordinate organization in the Mainland which had been prohibited in the Mainland, it was unclear whether such a situation would be tolerated after the enactment of the Bill, including whether it was permissible for such a local organization to provide financial assistance to its subordinate organization in the Mainland.</div>
<div>* 15.</div> <div>Sham Shui Po Community Association Limited</div> <div>Submission No. 62</div>	<div>(a) New section 2A of the Societies Ordinance should be amended to the effect that Part 4 of the Bill was also to be interpreted, applied and enforced in a manner that was consistent with the Johannesburg Principles and the Siracusa Principles;</div> <div>(b) There was no requirement in BL23 to prohibit activities of local organizations. The proscription mechanism would introduce the Mainland laws into Hong Kong. New section 8A(2)(a) and (c), (3) and (5)(g) and (h) of the Societies Ordinance should be deleted;</div> <div>(c) The expression "by order" in new section 8A of the Societies Ordinance should be deleted and replaced by the expression along the lines that S for S might apply to the Court of First Instance for an order to proscribe any local organization;</div> <div>(d) New section 8B of the Societies Ordinance should be amended to the effect that before proscribing an organization, S for S must provide the organization concerned in writing the reasons and the evidence for the proscription;</div>

Submission No. of written submission	Organization/ Individual	Views/suggestions
A. Proscription of local organizations		
		<p>(e) A subsection (5) should be added to the new section 8B of the Societies Ordinance to the effect that the benefit of doubt should go to the organization in question and that the standard of proof for criminal cases, i.e. beyond a reasonable doubt, should be adopted;</p> <p>(f) Being office-bearers and members of proscribed organization should not be an offence. New section 8C(1)(a), (c), (d) and (e) and (3)(b) of the Societies Ordinance should be deleted;</p> <p>(g) New section 8D(1) of the Societies Ordinance should be amended to the effect that any person who was aggrieved by the proscription might appeal to the Court of Final Appeal against the proscription, and section 8D(5) and (6) should be deleted; and</p> <p>(h) Rules providing for exclusion of the appellant and his legal representative violated the principle of fair hearing. New section 8E(2)(b), (3) and (4) of the Societies Ordinance should be deleted.</p>

<div> <div>Organization/ Individual</div> <div>Submission No. of written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 16. China Universities Alumni (H.K.) Association Submission No. 67	(a) A local organization, whose subordinated organization was a prohibited Mainland organization, should also be proscribed; (b) The existing procedures of seeking appeal to the CE in Council against the proscription should be adopted and that the decision of CE in Council on the appeal should be final; and (c) The appeal procedures could follow the requirements laid down by the international covenants on human rights, so as to avoid the situation of holding closed hearing.
* 17. Hong Kong Political, Economic and Cultural Society Submission No. 70	(a) New section 8A(4)(b) of the Societies Ordinance was in breach of BL19(3); and (b) New section 8D of the Societies Ordinance was in breach of BL160, 43, 48(2) and (8) and the decision of the National People's Congress of the PRC made on 23 February 1997, and should be revised.
* 18. Zhongshan University Law Faculty Hong Kong Students Association Limited Submission No. 72	(a) The proscription mechanism struck a balance between safeguarding national security and maintaining rights of appellants.

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 19. Miss Melissa Kaye PANG Submission No. 73	(a) Provisions on proscription of organizations proposed would not be in breach of the Basic Law, as evidenced by new section 2A of the Societies Ordinance which stipulated that the provisions of the Ordinance were to be interpreted, applied and enforced in a manner that was consist with BL39; and (b) Disagreed that proscribing an organization that was subordinate to a prohibited Mainland organization was tantamount to applying Mainland laws to Hong Kong.
* 20. Hong Kong Senior Education Workers Association Limited Submission No. 75	(a) The proposals would not undermine the freedom of associations; and (b) Sought clarification on the existence of two systems of appeals against the proscription if the Bill was enacted, i.e. section 8(7) of the Societies Ordinance provided for a right to appeal to CE in Council and new section 8D of the Societies Ordinance provided for the same to the Court of First Instance.
* 21. Miss Sylvia SIU Submission No. 80	(a) Proscribing an organization on the ground of endangering national security was unnecessary and beyond the scope of BL23.

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 22. Mr Michael C. BLANCHFLOWER Submission No. 81	(a) It was not appropriate for CJ to make rules for appeals against S for S's decision to proscribe an organization. Instead, these rules should be made by CE in Council; (b) There were precedents elsewhere for provisions in new section 8E(3) of the Societies Ordinance; and (c) The appointment of a legal representative under new section 8E(4) of the Societies Ordinance to "act in the interests of the appellant" would help to ensure that the appeal procedures were fair to the appellant and the statutory provisions and rules were complied with.
* 23. Hong Kong Culture Association Limited Submission No. 83	(a) Suggested that rules governing the proceedings of appeals against proscription should be made by either an independent committee or by the existing committee responsible for making High Court rules.
* 24. Hong Kong Christian Institute Submission No. 84	(a) Concerned that through enactment of the Bill, the HKSAR Government would introduce into Hong Kong the Mainland practice of using "protecting national security" as a pretext to silence dissenting views, suppress the development of civil society and deprive Hong Kong people of their basic human rights.

<div> <div>Organization/ Individual</div> <div>Submission No. of written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
<div>* 25.</div> <div>The Association for the Advancement of Feminism</div> <div>Submission No. 85</div>	<div>(a) Expressed concern about the wide power of S for S to proscribe organizations, and considered that proscription of organizations without court authorization was tantamount to automatic proscription;</div> <div>(b) Local organizations would be prosecuted for contributing funds to prohibited Mainland organizations, which were currently allowed under the existing law;</div> <div>(c) The appeal channel could only consider whether S for S had reasonably grounds to proscribe an organization, but it could not remove the proscription from the organization in question;</div> <div>(d) Proscription of organizations "subordinate" to prohibited Mainland organizations was outside the scope of BL23, which only prohibited ties with foreign political organizations. Moreover, applying the legal standards of the Mainland to Hong Kong to which Hong Kong courts could not question would seriously undermine "one country, two systems"; and</div> <div>(e) The fact that an appeal against the proscription could be held in secret and in the absence of the appellant or his legal representative would run contrary to the principles of natural justice.</div>

<div> <div>Submission No. of Written submission</div> <div>Organization/ Individual</div> </div>	Views/suggestions
A. Proscription of local organizations	
<div>* 26.</div> <div>Hong Kong Confederation of Trade Unions</div> <div>Submission No. 86</div>	<div>(a) Expressed concern about the wide power of S for S to proscribe organizations, and considered that proscription of organizations without court authorization was tantamount to automatic proscription;</div> <div>(b) Local organizations would be prosecuted for contributing funds to prohibited Mainland organizations, which were currently allowed under the existing law;</div> <div>(c) The appeal channel could only consider whether S for S had reasonably grounds to proscribe an organization, but it could not remove the proscription from the organization in question;</div> <div>(d) Proscription of organizations "subordinate" to prohibited Mainland organizations was outside the scope of BL23, which only prohibited ties with foreign political organizations. Moreover, applying the legal standards of the Mainland to Hong Kong to which Hong Kong courts could not question would seriously undermine "one country, two systems";</div> <div>(e) The fact that an appeal against the proscription could be held in secret and in the absence of the appellant or his legal representative would run contrary to the principles of natural justice; and</div> <div>(f) The proposals would restrict freedom of association.</div>

<div> <div>Organization/ Individual</div> <div>Submission No. of written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 27. Hong Kong Alliance Youth Group Submission No. 94	(a) Power of S for S to proscribe organizations was too wide; and (b) Opposed that appeal against proscription could be held in secret and in the absence of the appellant and his legal representative.
* 28. Amnesty International Hong Kong Section Submission No. 96	(a) Proscription of organizations was outside the requirement of BL23, and allowed for the PRC concepts of national security to take precedence in Hong Kong; (b) Concerned that S for S could proscribe an organization if he/she "reasonably believes" that the proscription was necessary in the interests of national security and was proportionate for such purposes; (c) It was unnecessary to introduce another legislation to proscribe organizations, as there were already existing proscription mechanisms provided under the Societies Ordinance, the United Nations (Anti-Terrorism Measures) Ordinance; (d) Concerned that before proscribing an organization, the organization in question would be denied an opportunity to be heard or to make representations in writing if S for S "reasonably believes" that it would not be practicable in the circumstances of the case;

<div> <div>Organization/ Individual</div> <div>Submission No. of written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
	<p>(e) It would be extremely difficult for the appellant to prove that the organization in question did not fall within new section 8A(2)(a), (b) or (c) of the Societies Ordinance;</p> <p>(f) Punishments for participating tin the activities of proscribed organizations were overly harsh; and</p> <p>(g) Strongly opposed appeal against an order of proscription to be held in camera and in the absence of the appellant or his legal representative.</p>
* 29.	<p>Justice & Peace Commission of the Hong Kong Catholic Diocese Submission No. 100</p> <p>(a) Proscription of local organizations "subordinate" to prohibited Mainland organizations introduced the Mainland concept of national security to Hong Kong;</p> <p>(b) Opposed that S for S could proscribe an organization if he "reasonably believes" that the proscription was necessary in the interests of national security and was proportionate for such purposes; and</p> <p>(c) Punishments for participating tin the activities of proscribed organizations were too harsh.</p>

<div> <div>Submission No. of written submission</div> <div>Organization/ Individual</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 30. Democratic Party Submission No. 101	(a) The provisions for proscription were beyond the requirement of BL23; (b) It was unnecessary to introduce another legislation to proscribe organizations, as there were already existing proscription mechanisms provided under the Societies Ordinance, the United Nations (Anti-Terrorism Measures) Ordinance; and (c) Proscription of local organizations "subordinate" to prohibited Mainland organizations introduced the Mainland concept of national security to Hong Kong. This was detrimental to the realization of "one country, two systems".
* 31. Hong Kong Human Rights Monitor	(a) Proscription of organizations was outside the requirements of BL23; (b) The proscription mechanism would have the effect of introducing Mainland laws to Hong Kong, thereby undermining the realization of "one country, two systems"; and (c) Excluding the appellant and his/her legal representative from attending the hearing of the appeal on the ground of protection the publication of the evidence would undermine the principles of natural justice.

<div> <div>Organization/ Individual</div> <div>Submission No. of written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 32. Hong Kong Professional Teachers' Union Submission No. 108	(a) The appeals to be held in camera and in the absence of the appellant violated the principle of fair hearing.
* 33. Hong Kong Catholic Social Communications Office Submission No. 117	(a) It was unnecessary to introduce another legislation to proscribe organizations, as there were already existing proscription mechanisms provided under the Societies Ordinance and the United Nations (Anti-Terrorism Measures) Ordinance; (b) Proscription of organizations "subordinate" to prohibited Mainland organizations introduced the Mainland concept of national security to Hong Kong. This was detrimental to the realization of "one country, two systems"; and (c) Opposed appeal against an order of proscription to be held in camera and in the absence of the appellant or his legal representative.

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 34. The Frontier Submission No. 118	<p>(a) Proscription of local organizations "subordinate" to prohibited Mainland organizations was outside the scope of BL23, which only prohibited ties with foreign political organizations;</p> <p>(b) It was unclear what was meant by "substantial" as referred to in new section 8A(5)(h) of the Societies Ordinance;</p> <p>(c) Proscribing an organization in accordance with an open decree from the PRC would undermine the realization of "one country, two systems", as this would extend the laws of the Mainland to Hong Kong; and</p> <p>(d) Strongly opposed appeal against an order of proscription to be held in the absence of the appellant or his legal representative.</p>
* 35. Hong Kong Federation of Students Submission No. 120	<p>(a) Opposed appeal against an order of proscription to be held in camera and in the absence of the appellant or his legal representative, as the proposal would undermine human rights protection; and</p> <p>(b) Proscribing an organization in accordance with an open decree from the PRC would undermine the realization of "one country, two systems", as this would extend the laws of the Mainland to Hong Kong.</p>

<div> <div>Submission No. of written submission</div> <div>Organization/ Individual</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 36. Article 23 Concern Group Submission No. 121	<p>(a) The proscription mechanism went beyond the requirements in BL 23, and it threatened the freedom of association and expression as well as the right to open justice and legal representation;</p> <p>(b) A certificate from the Central Authorities that the Mainland organization was banned by open decree must be accepted by the Hong Kong courts as final would undermine the realization of "one country, two systems";</p> <p>(c) The definition of "subordinate" was vague and unreasonable. For example, an non-governmental organization (NGO) applying for funding from a funding organization did not make this NGO a subordinate of the funding organization. It was also difficult to ascertain what degree of indirect influence would amount to control;</p> <p>(d) There were already three existing proscription mechanisms. It was questionable why another and more powerful mechanism should be created and put into the hands of S for S;</p> <p>(e) New section 8C of the Societies Ordinance would not only undermine freedom of association and might affect religious freedom. In respect of the latter, this was because the PRC Government was known to exert a tight control over religious groups;</p>

Submission No. of written submission	Organization/ Individual	Views/suggestions
A. Proscription of local organizations		
		<p>(f) Allowing appeal against an order of proscription to be held in camera and in the absence of the appellant or his legal representative would run contrary to the principles of natural justice. It would also bring Hong Kong closer to the closed door and summary trials in the Mainland for national security offences and seriously undermine "one country, two systems";</p> <p>(g) The Government argued that Canada and the United Kingdom had similar appeal procedures, but admitted that they applied to immigration matters only and were not used for dealing with their own nationals. Existing national security law in Hong Kong, including proscription of organizations and terrorist groups, did not have similar procedures. Further, by contrast, for other serious BL23 offences, which involved national security such as treason, subversion and secession, the accused could elect to have jury trial;</p> <p>(h) Proscription of organizations "subordinate" to Mainland organizations was outside the scope of BL23, which only prohibited ties with foreign political organizations;</p>

<div> <div>Organization/ Individual</div> <div>Submission No. of written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
	<p>(i) There were frequent reports of Mainlanders being charged or convicted of national security offences for defending workers' rights or engaging in relief work. Many Hong Kong organizations which had liaison with such Mainlanders might be vulnerable under this new proscription procedure; and</p> <p>(j) All powers to proscribe organizations under new sections 8A to E of the Societies Ordinance should be deleted.</p>
* 37.	<p>Law Association, Hong Kong University Student Union Submission No. 122</p> <p>(a) Proscription of organizations which were subordinate to a Mainland organization was not mandated by BL23;</p> <p>(b) It was not clear what it meant by "not be practicable in the circumstances of the case" as referred to in new section 8B(2) of the Societies Ordinance;</p> <p>(c) Allowing CJ to make rules for appeals against the proscription was against the principle of separation of power; and</p>

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
	(d) The holding of appeal proceedings in the absence of the appellant and his legal representative might be against BL35 which stated that Hong Kong residents had the right to confidential legal advice, access to the court, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies.
* 38.	<div> <div>Hong Kong Polytechnic University Student Union Submission No. 123</div> <div> (a) Opposed appeal against an order of proscription to be held in camera and in the absence of the appellant or his legal representative; and (b) Proscribing an organization in accordance with an open decree from the PRC would undermine the realization of "one country, two systems", as this would extend the laws of the Mainland to Hong Kong. </div> </div>
* 39.	<div> <div>The Law Society of Hong Kong Submission No. 125</div> <div>(a) There appeared to be no need to give "pre-emptive" power to S for S to proscribe on the ground of national security, and the extreme measures contained in the proposed appeal procedure.</div> </div>

<div> <div>Organization/ Individual</div> <div>Submission No. of written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
40. Mr WONG Ying-ho, Kennedy Submission No. 129	(a) A committee, comprising members from the community and chaired by S for S, should be set up to decide whether a particular organization should be proscribed; and (b) A two-tier appeal channel, involving the Administration and the Judiciary, should also be set up to improve transparency and credibility.
* 41. The Hong Kong Eastern District Community Association Submission No. 130	(a) Supported the appeal mechanism.
* 42. The Joint Committee of Hong Kong Free Societies concerning the Legislation of Article 23 of the Basic Law Submission No. 134	(a) Concerned that proscription of organizations "subordinate" to prohibited Mainland organizations meant that the Mainland concept of national security would be applied in Hong Kong.

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 43. Asian Human Rights Commission Submission No. 135	(a) New 8A(2)(c) of the Societies Ordinance should be deleted. Under this proposal, the definition of national security in Hong Kong would be determined in Beijing, and local organizations would become unlawful without any oversight and protection by the courts in Hong Kong, thereby eroding "one country, two systems"; (b) A judicial review, instead of the proposed appeal procedure, should be provided to review the decision against the proscription; and (c) Excluding the appellant and his legal representative from attending the hearing of the appeal on the ground of protecting the publication of evidence which might prejudice national security ran contrary to the principles of natural justice.
* 44. The Student Union of the Hong Kong Shue Yan College Submission No. 138	(a) Proscribing an organization in accordance with an open decree from the PRC would erode "one country, two systems", as this would extend the laws of the Mainland to Hong Kong.
* 45. Mr Benjamin Tsz-ming LIU Submission No. 145	(a) The introduction of the some what unusual procedure for prosecuting the appeals fell within the bounds of ICCPR.

<div> <div>Organization/ Individual</div> <div>Submission No. of written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 46. The Society of Publishers in Asia Submission No. 144	(a) Proscription of organizations should be made by Hong Kong courts, based on criteria relevant to Hong Kong, upon application by S for S; (b) A closed door trial would seriously prejudice the rights of the appellant; (c) It was unclear whether a media organization had violated the law if it sent reporters to the meetings of proscribed organizations; and (d) The proscription provisions went beyond the requirements of BL23.
* 47. Mr GU Minkang School of Law City University of Hong Kong Submission Nos. 147 and 157	(a) It was not unreasonable for excluding the appellant and his legal representative from attending the hearing of the appeal on the ground of protecting the publication of evidence which might prejudice national security; and (b) Had confidence in the courts to uphold natural justice.

Submission No. of Written submission		Organization/ Individual	Views/suggestions
A. Proscription of local organizations			
*	48.	China Labour Bulletin Submission No. 148	<p>(a) Strongly opposed the linking of proscribed organizations on the Mainland to organizations in Hong Kong, which went beyond the requirements of BL23;</p> <p>(b) The proposal would allow the PRC concepts of national security to have precedence in Hong Kong, thereby eroding "one country, two systems". Moreover, given the widespread restriction on basic human rights in the Mainland, it was likely that many organizations in Hong Kong might be proscribed;</p> <p>(c) Urged that all powers to proscribe organizations be deleted; and</p> <p>(d) Excluding the appellant and his legal representative from attending the hearing of the appeal on the ground of protecting the publication of evidence which might prejudice national security ran contrary to the principles of natural justice.</p>

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
* 49. Hong Kong Federation of Catholic Students Submission No. 149	<p>(a) It was unclear what was meant by "substantial" as referred to in new section 8A(5)(h) of the Societies Ordinance;</p> <p>(b) Expressed concern that a local organization would be prosecuted for contributing financial assistance to a Mainland organization which was banned by the PRC in an open decree after the enactment of the Bill; and</p> <p>(c) Excluding the appellant and his legal representative from attending the hearing of the appeal on the ground of protecting the publication of evidence which might prejudice national security ran contrary to the principles of natural justice.</p>
50. The Association of the Bar of the City of New York Submission No. 150	<p>(a) New section 8A(2)(c) of the Societies Ordinance should be deleted. If retained, S for S should be required to make a determination that the local organization was both a national security risk by virtue of its activities in Hong Kong and subordinate to the Mainland organization through an open administrative proceeding before proscription;</p> <p>(b) The evidence required to sustain the proscription of a local organization should be provided in new section 8D(3)(a)(iii)(A) of the Societies Ordinance by adding that the words "notwithstanding the receipt of the certificate referred to in subsection 3 of section 8A";</p>

<div> <div>Organization/ Individual</div> <div>Submission No. of Written submission</div> </div>	Views/suggestions
A. Proscription of local organizations	
	<p>(c) Any proscription should first be reviewed and confirmed by S for J in compliance with the Basic Law and the ICCPR. Moreover, in order to avoid damaging judgement before trial, no local organization should be proscribed until proper administrative and judicial proceedings had been completed;</p> <p>(d) Penalties for membership in proscribed organizations were unreasonable and excessive; and</p> <p>(e) Provisions on closed court proceedings and the exclusion of defendant's chosen counsel were in violation of the relevant provisions of the Basic Law and the ICCPR.</p>
51.	<p>P M TISMAN Submission No. 152</p> <p>(a) There was no requirement under BL23 to introduce laws to proscribe organizations that endangered national security;</p> <p>(b) New section 8A(3) of the Societies Ordinance would potentially directly impinge upon freedoms in Hong Kong and merge the distinction between the laws of the Mainland and Hong Kong, as it was difficult to see how S for S could have any basis for taking a different view on national security than the Central People's Government had done when it made a decree to ban the operation of a Mainland organization;</p>

Submission No. of Written submission	Organization/ Individual	Views/suggestions
A. Proscription of local organizations		
		<p>(c) The scope of offence in new section 8A(5)(h)(iii) of the Societies Ordinance was too wide, and should be confined to "governing" or "basic" policies, and not any policy whatsoever;</p> <p>(d) Provision similar to new section 8B(2) of the Societies Ordinance in relation to representations should be applied to appeal against proscription;</p> <p>(e) It was not entirely satisfactory that the burden of proof should lie on the person charged with an offence under new section 8C(1) of the Societies Ordinance;</p> <p>(f) It also seemed to be inappropriate that the offence of "attending a meeting" of a proscribed organization should be put on a par with "acting as an office-bearer" or "managing or assisting the management" of a proscribed organization;</p> <p>(g) A period of at least 60 days should be allowed for any office-bearer or member of an proscribed organization to appeal to the court against the proscription;</p> <p>(h) It was unclear why the court should be restricted in an appeal to considering the matters specified in new section 8D(3) of the Societies Ordinance;</p>

Submission No. of Written submission	Organization/ Individual	Views/suggestions
A. Proscription of local organizations		
		<p>(i) The Bill was silent on matters, such as, what would happen to persons being prosecuted for participating in the activities of proscribed organizations, if the proscription was set aside by the court;</p> <p>(j) The grounds for excluding all or any portion of the public from an appeal hearing were not sufficiently stringent. It was not enough that the court should be satisfied, upon application by S for J, that the publication of material might prejudice national security. It should, more appropriately, be a requirement that the court should be satisfied that the publication would be likely to prejudice national security;</p> <p>(k) Rules for appeals against the proscription should not be introduced in the form of subsidiary legislation, having regard to the fact that the appeal could be held in the absence of the appellant and his legal representative; and</p> <p>(l) If excluding the appellant and his legal representative from attending the hearing of the appeal must retain in the Bill, then the circumstances under which they might be invoked should be clearly spelt out in the Bill.</p>

Submission No. of Written submission	Organization/ Individual	Views/suggestions
A. Proscription of local organizations		
52.	Human Rights Watch Submission No. 158	<p>(a) The proscription mechanism not only violated ICCPR, but would greatly increase the possibility of the Mainland Government intervening in the affairs of Hong Kong by introducing Chinese law and political control into Hong Kong through a backdoor, which was a clear violation of the both the letter and spirit of the Basic Law; and</p> <p>(b) Although the Bill stated that Hong Kong courts would act as the ultimate safeguard against arbitrary application of the new laws, the decision by the Standing Committee of the National People's Congress to overrule a decision of the Hong Kong courts in 1999 had undermined the previously high confidence in the independence of Hong Kong Judiciary.</p>
53.	Robert RUTKOWSKI Submission No. 159	<p>(a) The proscription mechanism not only violated ICCPR, but would greatly increase the possibility of the Mainland Government intervening in the affairs of Hong Kong by introducing Chinese law and political control into Hong Kong through a backdoor, which was a clear violation of the both the letter and spirit of the Basic Law; and</p> <p>(b) Although the Bill stated that Hong Kong courts would act as the ultimate safeguard against arbitrary application of the new laws, the decision by the Standing Committee of the National People's Congress to overrule a decision of the Hong Kong courts in 1999 had undermined the previously high confidence in the independence of Hong Kong Judiciary.</p>

* Organizations/individuals who have given oral representations to the Bills Committee