

**Hong Kong Christian Institute's Submission to the
Legco Bills Committee on the
National Security (Legislative Provisions) Bill 2003**

April 22, 2003

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

Regarding the National Security (Legislative Provisions) Bill 2003, HKCI wants to express our concerns about the bill as well as the attitude of government officials in responding to the anxieties of the public. We also want to inform the Legislative Council (Legco) about our position on this proposed legislation.

Since the government of the Hong Kong Special Administrative Region (HKSAR) released its Article 23 consultation document in September 2002, many questions and concerns have been raised by legal professionals, journalists, members of the religious community, human rights groups, academics and others in Hong Kong. One of the major concerns was that the contents of the consultation document were so vague and broad that they could easily be abused by the government. Although the government has made some amendments to the legislation after the consultation, the criminal offences in the bill are still ambiguous which could allow the government to use the law to deny, rather than protect, the rights of Hong Kong's people. For instance, regarding the offence of treason in the bill, the government should provide examples to illustrate what kind of "intent" would be sufficient to constitute an intent to intimidate the central government.

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

Third, the Article 23 legislation will criminalise free speech. Organisations representing journalists have expressed their deep concern about this threat to their ability to carry out their responsibilities as journalists, especially regarding the offences of sedition and the theft of state secrets. We worry that, if this bill becomes law, an indirect form of censorship will be imposed on the media which will damage freedom of speech and expression in the community.

In the bill, the government has not provided a rationale for protecting information relating to Hong Kong's affairs which are within the purview of the central authorities. From the manner in which government officials in China initially handled the severe acute respiratory syndrome (SARS) crisis, it is very clear that their lack of transparency and accountability has seriously harmed people's health on the mainland as well as that of the global community. This should be an important lesson for the HKSAR government as well.

Fourth, we worry that the proposed Section 8A(3) of the Societies Ordinance, which provides for a certificate to be conclusive proof that a mainland organisation has been proscribed on the mainland by the central authorities in accordance with national law on the grounds that it endangers national security, will import into Hong Kong the definition of national security as established on the mainland. This law thereby absolves the HKSAR government from having either any responsibility or authority over such matters because under the bill the definition of “national security” in Hong Kong will be determined in Beijing. Currently, Falun Gong and some unregistered Christian communities are banned in mainland China under the “evil cult” law. However, if the mainland authorities also ban Falun Gong and the unregistered Christian communities under national security laws, then they would also be banned in Hong Kong.

Fifth, as to the proposed power given to the police to conduct search-and-seizure operations without court-ordered warrants for evidence related to the offences of treason, subversion, sedition, secession and the handling of seditious publications under Section 18B of the Crimes Ordinance, many people have already expressed their apprehensions surrounding this expansion of police power for investigative purposes—worries that we too share as it can easily lead to an abuse of power by the police.

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

Although government officials have tried to reassure the public that Falun Gong practitioners, supporters of Taiwan, etc., are not the targets of this legislation and that their activities and organisations will not be affected, concerns and worries still continue to exist. This anxiety is primarily because Hong Kong does not have a fully functioning democratic system which can truly represent the interests of the people. Moreover, the one-party State on the mainland, whose national security this legislation seeks to protect, does not have a good human rights record and has a history of repressing its own people through the use of similarly vague and broad national security legislation as that being advocated by the HKSAR government.

From the above evidence, it is quite clear that, if the HKSAR government insists on proceeding with this legislation without taking seriously the fear and objections of the people, the law will only serve the purpose of creating tension within the community and will indicate an intention to silence dissenting voices in order to inhibit the participation of Hong Kong’s people in decision-making and debate relating to policies that affect them, which will, of course, be to the advantage of the authorities.

While the current SARS crisis has captured the attention of the community, what Hong Kong’s people want from our government is to provide adequate protection for their health and security but not to make use of the community’s diverted attention to rapidly enact this national security legislation by July 2003.

As Christians, we believe that freedom of expression, particularly freedom of thought, belief, conscience and speech, are basic human rights. We cannot sacrifice these values in the name of protecting “national security.” In particular, the freedom of religious belief of Christians flows from our freedom of conscience, which may cause us to hold views that oppose those of the government. Moreover, one of the most valuable aspects of Christian communities is the worldwide fellowship which springs from our belief that all members of humanity are part of God’s family. Following this principle, and the lack of a democratic and representational political system in Hong Kong, the Hong Kong Christian Institute cannot support the HKSAR government’s National Security (Legislative Provisions) Bill 2003. Instead, we propose that the HKSAR government amend the existing draconian laws which violate people’s human rights and freedom, such as the Public Order Ordinance. In this way, the community will have more confidence that the HKSAR government truly wants to create an open and accountable administration, one that will serve the people of Hong Kong and protect their rights. We cannot be the “masters of our own house” as announced by Chief Executive Tung Chee-hwa at the time of the handover in 1997 when we must question the intentions of our government and its sincerity in defending our freedoms.

Rose Wu
Director
Hong Kong Christian Institute
11 Mongkok Road, 10/F
Kowloon
Telephone: 2398-1699
Fax: 2787- 4765
E-mail Address: hkci@netvigator.com
Web Site: <http://www.hkci.org.hk>