

Submission No. 91

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To: rlam@legco.gov.hk

cc:

Subject: National Security (Legislative Provisions) Bill

2003/04/17 10:55 PM

Dear Sir or Madam:

I have a personal interest in laws of treason and in matters concerning human rights.

I note that the HKSAR website [<http://www.basiclaw23.gov.hk/english/index.htm>] invited responses to the National Security (Legislative Provisions) Bill. I hope it is acceptable for me, a non-Chinese national and a non-Hong Kong resident, to comment on the proposed legislation.

1. I read Amnesty International's report on the initial proposals for treason by the HKSAR and agreed entirely with AI's criticisms. Therefore, it is to Hong Kong's credit that it took AI's criticisms on board and acted in every respect on AI's advice with respect to the definition of treason (ie, by omitting use of the obscure phrase "levying war" and by defining "enemy", etc.). I agree that the treason offence should be committed only by citizens. I wholeheartedly commend Hong Kong, its government, its legislature and its people, for making the definition of treason proposed in the aforesaid Bill the most concise, the most strictly-defined and most humane definition of treason that I believe exists anywhere in the world. I

look forward to seeing the Bill's definition enacted into Hong Kong law.

2. I believe that the Bill's proposed treason definition is very strict and narrow. It contains only three treasons against China, which are well-defined (including obscure phrases well-defined). It does not include conspiracies or incitements or attempts to commit any of the acts proposed for treason as treason itself, which I believe is excellent. The very strict definition, and the small number of treasons, can only be to the benefit of the People of Hong Kong and to the protection of their civil liberties and human rights. Again, Hong Kong is to be commended.

3. I am glad that the archaic offences of misprision of treason and compounding treason are proposed for abolition.

4. I have reservations, however, on the offences of subversion, secession and sedition; they cannot be relevant in the modern world. However, I understand that the enacting of such crimes is required by Article 23 of the Basic Law. I believe that the said offences are strictly defined enough not to be abused by the authorities. I personally believe that the offences of treason and espionage are sufficient to protect the state. Passing laws on "subversion", "secession" and "sedition" stir images of limits on freedoms of speech, of expression, of assembly and of protest, and of the press. However, if these offences are tailored for the modern age, where those offences involve violence and force (which the Bill proposes they do) and the manner of exerting that violence and force is clearly defined (which it is), then I see no room for abuse by the authorities.

5. I hope that Hong Kong's definition of treason is adopted by other countries throughout the world as a model for protecting the state and for protecting the individual at the same time.

6. My only worry about the magnificent definition of treason is that it may be overturned by the Central People's Government if they believe it allows too much freedom for the people such as to cause them worry and concern. I will be watching Hong Kong closely from Scotland to see if the Central People's Government feels threatened by Hong Kong's civil liberties and also to see if it imposes its own treason laws on Hong Kong for reasons already stated.

I trust I am not "out of place" to make comments on the law of a country that does not concern me. If I am, please let me know.

Again, I commend Hong Kong for their wonderful initiative in composing a truly strict definition of treason which I, for one, hopes will pass into law.

Friendly regards
Mark Colquhoun
SCOTLAND
Europe