

October 28, 2002

To the Members of the Legislative Council:

As a permanent resident of Hong Kong from the United States, I am quite concerned about the proposed legislation to enact Article 23 of the Basic Law. Since I moved to Hong Kong in 1990, I have enjoyed the community's open society and the freedoms given to people living here to speak openly without fear, to exchange information and ideas through a free press and to express their grievances in acts of protest without the threat of being persecuted. Indeed, Hong Kong's leaders in the government and in the business community have publicly hailed these traits over the years as qualities of our society that set us apart from other cities in China and that attract foreign investment that creates jobs for local people.

Now, however, the proposed legislation to implement Article 23 puts these freedoms and the benefits they bestow on the community at risk. I fear that with the enactment of this legislation as presently proposed that Hong Kong will move closer to being like the tightly controlled city of Singapore or even cities on the mainland. If this scenario occurs, Hong Kong will, in effect, be governed more by the principle of "one country, one system" instead of "one country, two systems."

Although government officials in both Beijing and Hong Kong have stated that now is the appropriate time to enact Article 23 legislation, they have not, as far as I am aware, told us why now is such an appropriate time. In fact, to my mind, now is the least appropriate time to introduce this legislation with the community in the midst of an economic downturn for the past few years, with record unemployment that has only declined slightly in the past few months, with the government struggling to balance its budget and with no sight of an economic recovery in the foreseeable future. Enacting this legislation will not be seen by the international community as a policy to entice more foreign investment that could help create jobs, stimulate the economy and reduce the government's annual budget deficit by providing additional tax revenues, for Americans and other expatriates will now have to consider whether they may be arrested and convicted for treason or subversion if war erupts between their native country and China. As is well known, tensions periodically escalate between the United States and China, and I personally do not relish the prospects of being charged with treason or subversion in Hong Kong if disagreements between the two

countries would unfortunately lead to war. Another possible scenario is a war between China and the Philippines over the Spratley Islands. Presumably, the approximately 150,000 Filipino domestic workers in Hong Kong would then face a similar dilemma, which would, again, negatively impact Hong Kong's economy.

Another reason for believing that now is not the appropriate time to enact the proposed Article 23 legislation is the present political system in Hong Kong. In carefully reading the consultation document, I have observed that most of the examples cited in the consultation paper are from countries with well-entrenched democratic systems. Hong Kong, of course, does not yet enjoy such a system with less than half of the legislative councilors directly elected by the people at the present time and the chief executive chosen by less than 1,000 people in a city with a population of 6.7 million.

A much more appropriate time to enact Article 23 legislation, I believe, is when the economy has improved and is stable and when a democratic system has been established. Moreover, any future Article 23 legislation must be very narrowly defined unlike the ambiguous wording in the present proposal that creates the possibility of opening the legislation to abuse by the Hong Kong government in a manner similar to other Asian countries, such as Singapore and Malaysia where the law is used to deny people their rights instead of protect them. Although this does not seem like a likely development today, this legislation will, in all probability, outlive the terms of office of current government officials and Legislative Council members, and one cannot foresee Hong Kong's government of the future. It would be unwise to present a legal weapon to government leaders of the community in the future who may abuse a loosely defined law for their own self-interests or those of their political party as has sadly happened in other parts of Asia. We do not want Hong Kong to become a city where repression and fear are the norms like in so many other parts of the region.

Another concern involves the relationship between Hong Kong and the mainland. Since the handover in 1997, it appears that the Chinese government has at least indirectly influenced decisions here or perhaps even interfered in Hong Kong's affairs. While this influence or interference may not be in the form of a directive from Beijing, the Hong Kong government seems to be sensitive to the policy parameters on the mainland and takes actions that do not step outside of these boundaries. Some events that prompt these comments are the refusal of immigration officials to permit overseas Falun Gong followers or U.S.-based Chinese dissident Harry Wu to enter Hong Kong

in the past year. If the Article 23 legislation as currently proposed is enacted, especially those sections related to proscribed organizations or the theft of state secrets, it can be expected that this interference or influence will only intensify, affecting to an even greater degree Hong Kong's promised autonomy and a dilution of the rule of law.

Lastly, it is imperative that a white bill is presented to the community for their scrutiny and comments without the pressure of a deadline. In my view, this legislation is the most important law that the Legislative Council has been asked to pass since 1997, and its passage should not be accelerated to meet an artificial deadline. Government officials in Hong Kong have sought to reassure the community that this proposed legislation will not be used to infringe upon people's freedoms and the rule of law. However, these oral assurances do not carry the weight of law, and again, the law will most likely extend beyond the term of office of current government officials. Whether the legislation is presented now or, as I have sought to emphasize above, at a more appropriate time in the future, the government must present a white bill to minimize people's fears and to ensure that the best piece of legislation becomes law.

Sincerely,

Bruce Van Voorhis