

Free speech in China:

an analysis of press coverage of the Article 23 debate

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Article 23 as seen by Hong Kong cartoonist, Kee Yung

<http://www.paris-hongkong.com/tigertaming/42article23.html>

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law...

Preamble to the Universal Declaration of Human Rights (<http://www.un.org/Overview/rights.html>)

Introduction

Freedom of speech is much spoken about but less frequently practised. According to Article 19 of the United Nations Universal Declaration of Human Rights, everyone has the right to freedom of opinion and expression. “This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers,” the declaration said.

In most countries there is a gap between the ideal of free speech and the reality. Perhaps nowhere is this gap so glaring than in mainland China, where despite constitutional guarantees, all media are rigorously controlled by the Communist party. Yet China today also encompasses the Special Administrative Region (sar) of Hong Kong, a long-standing beacon of a free press in Asia. This paper examines the contradictions, political consequences, and implications for freedom of speech in both Hong Kong and China that arises from that unique and optimistic formula: one country, two systems.

Free Speech

Free speech may be expressed through the mass media, on the internet, in small publications or public demonstrations. Yet freedom of speech is a right, which exists through practice, in that it becomes a meaningless Soviet style slogan if citizens choose not to or are unable to use it.

In the United States, free speech is protected by the Constitution, allowing individuals to use the courts to challenge government infringements. In Britain and Australia, it has developed through precedents and become a custom hedged by legislation governing defamation, court procedures and more recently copyright. In China, it was hoped to exist in one country and two systems; not on the mainland where the Communist Party controlled government imposed strict controls of the press, effectively licensed journalists, and in 1989 used an armoured division to crush student demonstrations, but in Hong Kong where an agreement between the departing colonial power and Beijing was supposed to guarantee western style freedoms.

In much of western literature, particularly that emanating from the United States, freedom of speech is seen as inextricably intertwined with democracy. Yet in Hong Kong, free speech is governed by a Chief Executive approved by Britain yet appointed and maintained by authorities in Beijing. The appointed Executive of the Hong Kong Special Administrative Region of China reported to a Legislative Council (LEGCO) where only a minority of councillors were directly elected.

Could freedom of speech therefore endure where democracy did not flourish?

This paper considers how press notions of free speech and democracy differ in greater China and the former colony of Hong Kong; where the system of one country two systems was intended to protect individual rights. It does so by examining Beijing, Hong Kong and international reportage of free speech issues related to the Special

Administrative Region's Article 23 security legislation. The bill, which may have seriously curtailed civil liberties including press freedoms, provoked widespread oppositions in the HKSAR. A comparative analysis of this coverage not only reveals contemporary Chinese attitudes to free speech, but also illuminates what may not be reported by the different press systems.

At issue:

China's "One Country two systems" would allow Hong Kong to discuss free speech issues un-reported in mainland China.

Free speech can continue in and therefore influence a non democratic system of government.

Methodology

This study begins on 24 September 2002, when Hong Kong's Chief Executive, Tung Chee-hwa, announced new security measures derived from Article 23 of the Special Administrative Region's Basic Law. It concludes on September 5 2003, when Mr Tung announced the withdrawal of the legislation. It reviewed 643 items, including Hong Kong, Beijing and international press reports, submissions by lobby groups, official statements and transcripts of speeches. Given the huge variety and number of reports and commentaries published, it seeks to be comprehensive rather than conclusive in its scope.

A database was created with fields recording date of publication, name of publication (if appropriate) author's name, theme, title, country of origin, those quoted, those reported and style.

Free Speech in colonial Hong Kong

In the decade prior to the handover itself, the British authorities had relaxed press controls and neglected to enforce regulations that might have stifled press debate. By 1997, Hong Kong boasted of a diversified and competitive media; including 59 daily newspapers, 675 periodicals, two commercial television stations, a subscription television service, a regional satellite television service, and two commercial radio stations. The government broadcaster, Radio Television Hong Kong, drew on BBC international news services and featured British style programming and news. (Knight Nakano 1997, pp 9/10) Speaking on the eve of the handover, veteran *Far Eastern Economic Review* Editor, Derek Davies, argued that colonial Hong Kong had enjoyed the freest press in Asia.

The real reason for Hong Kong's freedom of the press and of speech was that, unlike every other regional regime, it possessed no ideology. It was neither left nor right wing. It had no tenets, no creeds to sell, or to impose on the people. Hong Kong, as an anachronistic colony was making its way towards prosperity in the midst of a region sharply split by Cold War ideologies, and had no wish to choose sides. It was a haven for refugee Chinese who themselves wished to avoid the choice required of most Chinese, between Chiang Kai Shek's Kuomintang and Mao's China, and who preferred to live under a foreign flag rather than accept that choice. The bureaucrats were neutral. There was no "line" to follow. The only litmus tests were "Does it work? Will it work? If it's working now, why change it?" (Davies 1997)

Davies described the colonial government's attitude to the press as, "Positive non-interventionism". He was pessimistic that free speech would survive the return to the motherland.

The Hong Kong Journalists Association campaigned vigorously for freedom of speech before and after the handover from Britain to China. The Vice President of the Association, Kin-ming Liu, in 1997 noted mainland Chinese intolerance of media criticism, specifically on questions about Taiwanese independence.

Under the current system in Hong Kong, if we write anything inaccurate or unfair, people can take us to court and sue us for libel. This is more or less a fair game. However, it will be very different after July 1. Hong Kong has the rule of law. Mainland China has the rule of man, or if you like, the rule by law. They can pass any law in the morning, change it in the afternoon, abolish it in the evening, and reinstate the same thing the next morning... (Kin-Ming Liu 1997)

Kin-Ming Liu warned of a second threat to Hong Kong free speech, that of self-censorship by journalists. He described this threat as more serious than mainland intervention:

A recent poll conducted by the Chinese University in Hong Kong said, one in five journalists have practised self-censorship and more than half believe press freedom will diminish after 1997. This phenomenon happens without any explicit pressure or threat from mainland China. Chief editors and senior management people in newsrooms act as censors for Beijing. They kill stories, which are seen as offensive to mainland China and water down criticisms of the future master. (Kin-Ming Liu 1997)

Pro-Beijing editor, Tsang Tak-sing, ran a Hong Kong newspaper, *Ta Kung Pao*, which regularly ignored "un-patriotic" news even before the handover. But in 1997, he predicted that there would be two entirely different modes for the press in China after the

handover. "There will be things that you cannot write on the mainland, but can be published here. This is precisely the concept of one country two systems: two sets of values, two mechanisms for the operation of the press." Tsang told the American Chamber of Commerce:

What exactly is the main difference between the operations of the press in the two systems? The difference is that in mainland China there is a guiding ideology, call it communism, or Marxism or Mao Zedong thought, what ever you like, but there is a standard by which all news stories are measured to see whether they are fit to print, and those that are regarded as false or not up to the standard are discarded. Despite the temptation to Chinese exceptionalism, I think that this is not unique to China, but is true to any nation which has a strong set of beliefs, whether they be political, religious or cultural, which strongly affects the 'gate keeping' process in journalism. But here in Hong Kong, call it the capitalist society, or open society or free society or whatever you want, people here are used to the idea that nobody has a monopoly on the truth. Opinions compete in the market place, but the most popular may not necessarily be the closest to the truth. So here you have the right to be wrong (Tsang Tak Sing, Dateline Hong Kong, 1997)

Tsang said that Hong Kong's market economy would need a free flow of information to operate effectively.

The Basic Law

Britain ended its colonial involvement in Asia by handing Hong Kong back to China on July 1, 1997. The handover was made possible the Joint Declaration) which was signed between the Chinese and British Governments on 19 December 1984. The Joint Declaration sets out, among other things, the basic policies of the People's Republic of China (PRC) regarding Hong Kong. Under the principle of "One Country, Two

Systems", the socialist system and policies shall not be practised in the Hong Kong Special Administrative Region (HKSAR) and Hong Kong's previous capitalist system and life-style shall remain unchanged for 50 years. The Joint Declaration provides that these basic policies shall be stipulated in a Basic Law of the HKSAR.

The Basic Law of the Hong Kong Special Administrative Region (The Basic Law) was adopted on 4 April 1990 by the Seventh National People's Congress (NPC) of the PRC. It came into effect on 1 July 1997.

http://www.info.gov.hk/basic_law/facts/content.htm

Article 23 of the Basic Law provides for security:

The Hong Kong Special Administrative Region shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government, or theft of state secrets, to prohibit foreign political organizations or bodies from conducting political activities in the Region, and to prohibit political organizations or bodies of the Region from establishing ties with foreign political organizations or bodies.

Consultation

Five years after the handover to China, Hong Kong's Chief Executive, Tung Chi-Hwa, released proposed changes to Article 23, for public consultation. Tung said he was fulfilling his duty to protect national security, which he saw as the foundation for "one country, two systems".

The consultation document was drawn up after detailed study and taking into account views expressed by different sectors of the community. In other words it is a thoroughly well considered document. Article 23 of the Basic Law stipulates that the HKSAR shall enact laws on its own to protect national security. It is thus our duty to proceed with the enactment of the legislation. In fact, it is the community's collective duty to protect national security. (Tung News Release 24.9.2002)

Tung emphasized that he would seek to protect Hong Kong's human rights and civil liberties.

The Article 23 discussion paper included the following proposals.

- Foreign Political Organisations could be proscribed and it would become an offence to organise, support or report on such organisations.
- the government proposed broadening the definition of sedition to include inciting others to commit treason, secession, subversion, or to acts of violence.
- The consultation paper recommended a new law making subversion an offence, including acts to intimidate China by use or threat of force.
- The proposals included blanket definitions of sensitive information, including information relating to international relations and to the relations between Hong Kong and the central government.
- The government proposed extending the definition of treason to include the overthrow of the central government, attempts to compel the government to change its policies, or to put any force or constraint upon the central government.

Tung urged his Hong Kong compatriots "to make conscious efforts to safeguard the security and unification of the motherland". He said the SAR would legislate against subversion, "as required by Article 23 of the Basic Law". Tung confidently predicted

that,” The vast majority of Hong Kong people will support such legislation”. (CD 3.7.2003)

Releasing the discussion paper

Hong Kong’s leading English language newspaper, the *South China Morning Post*, headlined Mr Tung’s proposals on page one, referring to “fears of a crackdown”. The 809 word article, described the proposals as “controversial”:

Under the plans, people found guilty of the four key crimes face life imprisonment. Rights activists, journalists and Falun Gong sect members said the proposals threatened civil liberties. But the chief executive said the plans were "liberal and reasonable". (SCMP 25.9.2002, p 1)

The journalists, Chris Yeung and May Sin-Mi Hon, directly quoted Tung Chi-Hwa, Chinese Foreign Ministry spokesman Zhang Qiyu, and Hong Kong Secretary for Security Regina Ip Lau Suk-ye. Tung sought to reassure the Hong Kong public. Tung said that he would protect human rights and civil liberties which were “the pillars of our success”. "In drawing up our proposals for the legislation, we have in fact compared them with similar laws in many Western countries. I find our proposals both liberal and reasonable," Tung said. He said that action on this issue, which he described as a duty to China, had been delayed for five years because of the perceived fragility of confidence in one country, two systems.

Security Secretary, Ms Ip said that ,”The mere expression of views, or mere reports or commentaries on views or acts of others will not be criminalized.”

“Every nation has laws to protect such fundamental interests of the country and Hong Kong, being an inalienable part of the People's Republic of China, definitely has a duty to enact laws on its own to protect national security...”offences against the state" occurred infrequently and therefore "the ordinary man in the street is unlikely to be involved". (SCMP 25.9.2002)

While the article actively questioned the government’s assumptions, no opposition figures were privileged by quotations. Doubts immediately emerged in the Hong Kong press. The *South China Morning Post*’s editorial that day was titled, “Lurking Fears”. According to the *Post*, “the devils are in the details”. “The mere fact that an organisation has been banned under mainland law would prima facie make its local chapter a likely target of proscription should send chills down the spines of those associated with that body,” the editorial said.

Proposed new provisions on the theft of state secrets and increased powers for the police to enter and search without warrants are equally disturbing. The notion of the unlawful disclosure of information relating to international relations and that between the central government and the SAR is simply too broad and potentially very restrictive on the operation of the media. (SCMP 25.9.2002, p 15)

The Post encouraged Hong Kong citizens to exercise their freedom of speech on the issue and “help shape the debate”, by sending letters to the Editor. (SCMP 25.9.2002, p 15)

International Criticism

The proposed legislation attracted criticism from wide ranging NGO’s including Amnesty International, the Catholic Church, the Hong Kong Bar Association, the World

Press Freedom Committee, the Society of Professional Journalists, the Hong Kong Foreign Correspondents Club and the British Chamber of Commerce in Hong Kong.

In October 2002, Hong Kong's *Apple* newspaper published an open letter to China's President, Jiang Zemin. It was signed by 44 international academics and writers (including the former Times China Correspondent, Johnathan Mirsky. They claimed the proposed changes undermined the spirit of the one country two systems agreement.

In mainland China, your government has a clear record of using anti-subversion laws to crack down on citizens as various as academics, internet entrepreneurs, workers rights advocates, and member of political and religious groups. If the proposed Article 23 legislation passes, little will stand between Hong Kong people and a similar fate. (Apple 22.10.2002)

The academics' letter said the self-censorship, "already well underway" would increase if the legislation went forward. The Society of Professional Journalists also predicted self-censorship, writing that Hong Kong had long stood as an example of an Asian city, which respected and protected a free press. I argued that even in democracies, national security issues were often in conflict with the inherent rights of a free and independent news media:

We believe it is through a free and unfettered flow of information, including a free media, that a nation finds its best security. When a reporters fears a story may run afoul of national security laws, he or she may think twice about pursuing it. Once reporters being to self censor their work out of fear of possible retribution, the free flow of information stagnates and corruption and public distrust creeps in. (SPJ News release 20.12.2002)

The Society said that its opinions had been informed by the views of working journalists in Hong Kong, including those of the members of the Hong Kong Journalists Association.

Amnesty International went further. In its submission to the Hong Kong Legislative Council, it warned that the legislation could result in direct censorship. Amnesty was particularly concerned about new penalties for sedition; a crime of speaking words against the state. Many countries had withdrawn sedition legislation while others had let it become dormant. "Malaysia is one example of a country which retains the offence and also uses it against opposition leaders and writers in order to stifle legitimate dissent," the submission said.

Amnesty claimed that the new offence of Unauthorised and Damaging Disclosure might prohibit the publication of information, which was widely available elsewhere. Difficulties in determining whether information was from a prohibited source or not could lead to further self censorship and curtail press freedoms, the submission said. (Amnesty International 12.12.2002)

The leader of the Catholic Church in Hong Kong, Bishop Joseph Zen, said the proposed subversion law was "quite scary". Hong Kong's second English Language newspaper, *The Standard*, reported the Bishop as urging the Hong Kong government to "be prudent and not to rush into legislating":

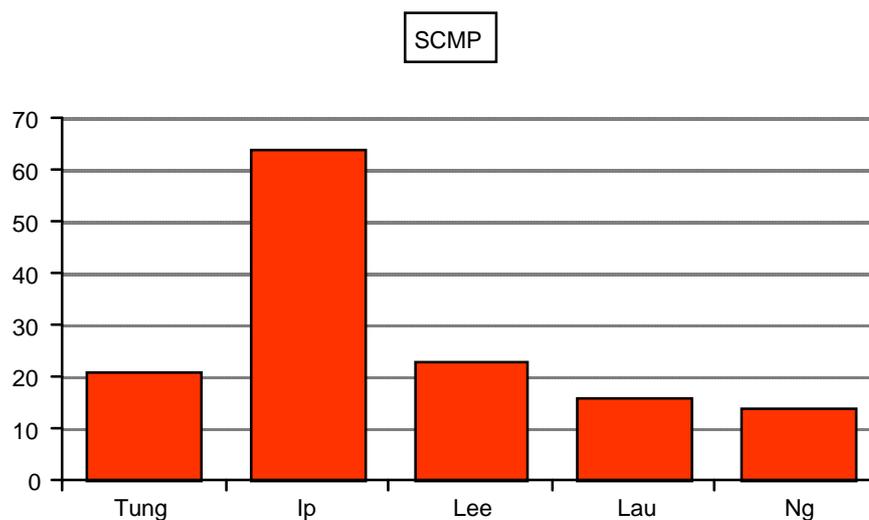
Zen also raised fears that freedom of speech could be hindered in the future. "The criticisms that we can voice here could constitute subversion when expressed on the mainland. This is quite scary."

The bishop said he was bemused that Secretary for Security Regina Ip, rather than Secretary for Justice Elsie Leung, had the task of promoting the consultation paper. "Maybe that's because the Security Bureau now enjoys a higher rating in the eyes of the public. The public may find it more easy to accept." (*The Standard* 4.10.2002)

The Bishop was to become a consistent critic of the Article 23 proposals, later describing the responsible legislators as "splitting the hearts of the Chinese people" and causing fear.

(SCMP 24.11.2002 p 4)

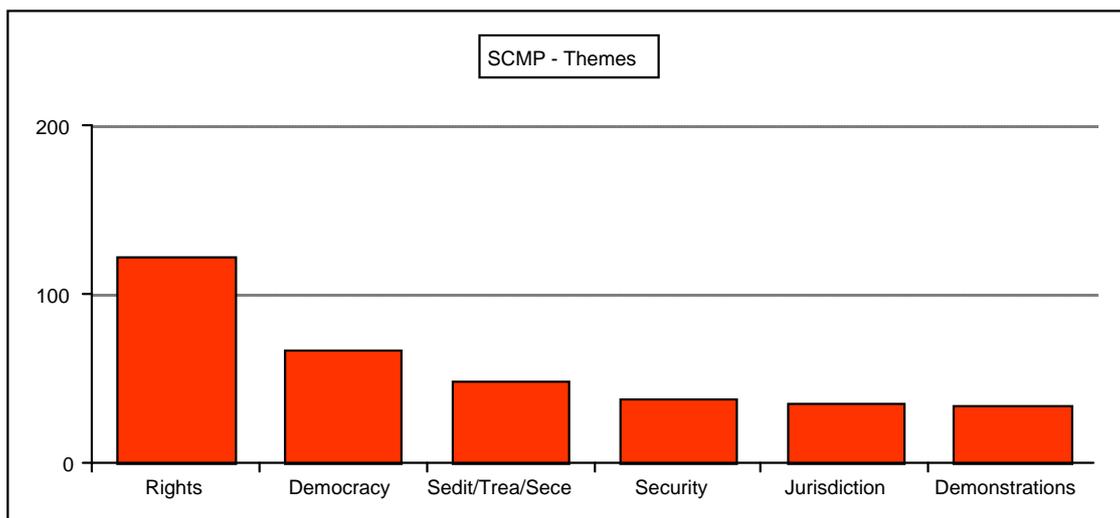
News Actors



Regina Ip (64 articles) featured most frequently in the 187 *South China Morning Post* items surveyed.¹ The relatively remote Chief Executive, Tung Chi-Hwa, was reported in only twenty one times, less than the Democrats leader, Martin Lee who appeared 23

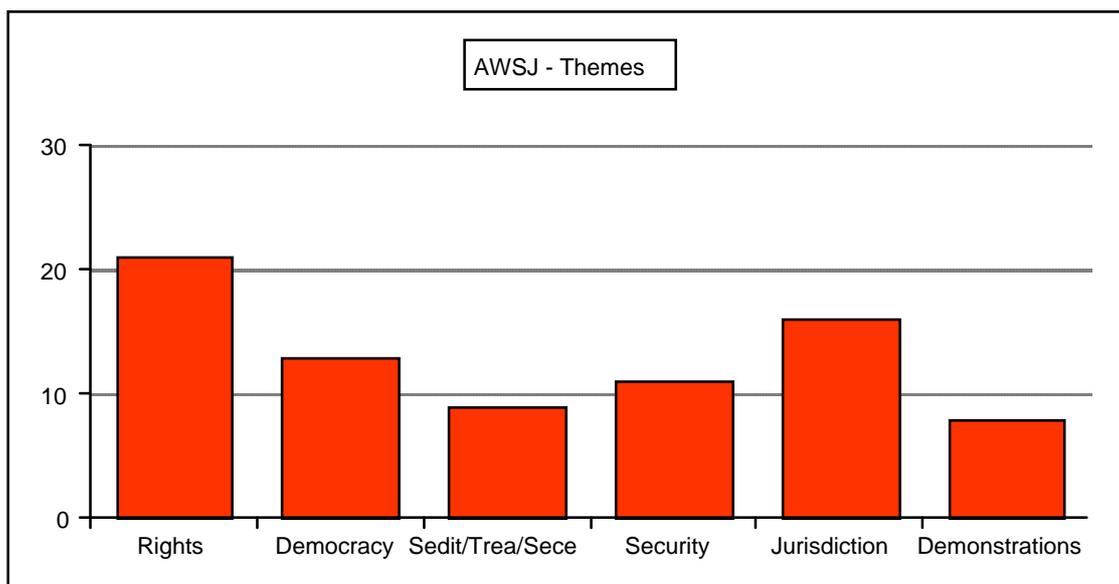
¹ It should be noted that items included news reports, feature articles, op ed pieces and letters to the editor.

times. A key organiser of the July 4 demonstrations, Emily Lau (16) was reported more frequently than the legal fraternity representative, Margaret Ng (14).

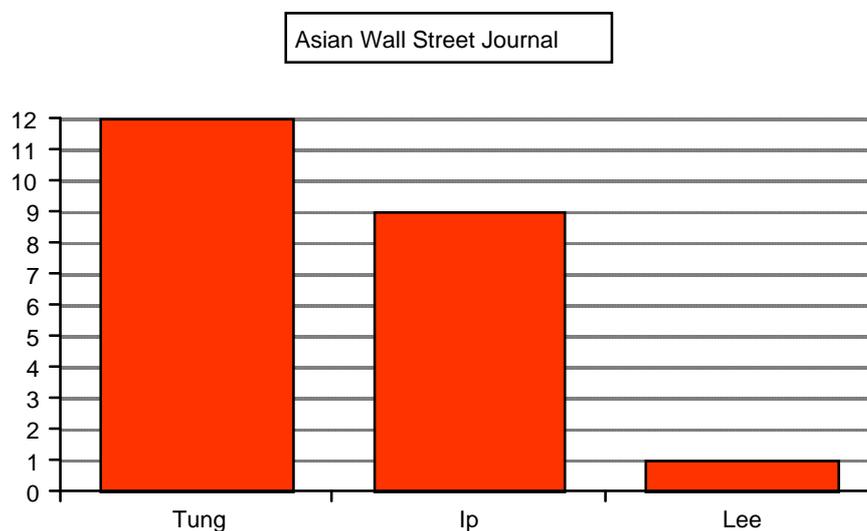


Items in the Post included 162 news reports and two editorials.

The *South China Post* was overwhelmingly concerned with questions of human rights with issues relating to democracy in Hong Kong running second. The government's key issues; the elements of the Article 23 proposals, state security and China's relationship with Hong Kong were mentioned much less frequently. Indeed coverage of demonstrations was almost as frequent as jurisdiction.



The *Asian Wall Street Journal* also saw human rights as the most important issue. However, the question of jurisdiction was the second most frequently reported issue, ahead of democracy, security, and the specific issues of sedition, treason and secession. Demonstrations also received significant coverage.



Thirty seven *Asian Wall Street Journal* items were surveyed. Tung Chi-hwa (12) was most frequently reported, ahead of Regina Ip (9). Martin Lee appeared once.

Items surveyed in the *Asian Wall Street Journal* included 12 news reports, four editorials and seven letters.

Regina Ip

Hong Kong security secretary Regina Ip became the government's spokesperson for much of its Article 23 campaign. A career civil servant for twenty eight years, she held the post of Secretary of Immigration in the colonial government before being the first woman appointed as Secretary for Security. (*Standard* 17.7.2003) Mrs Ip's distinctive hairstyle attracted the nickname "broomhead" Ip, which in turn promoted an anti-government cartoon series. (SCMP 12.8.2003) Often blunt and confrontationalist in style, she reflected the Tung executive's inexperience in populist politics. Mrs Ip claimed that ordinary Hong Kong people, such as taxi drivers and waiters, were simply not interested in security issues.

In the face of growing public opposition, she doggedly espoused the official government line that there was widespread community support for the new security measures. At a meeting attended by 400 students at City University, she was jeered and heckled when said most of the people she had spoken to supported her view:

Another student asked his fellow colleagues attending the forum to raise their hands on whether they supported the legislation. Only a few did so, while almost half indicated their disapproval. Mrs Ip responded by saying she had won support at a forum hosted by the pro -Beijing Federation of Trade Unions last week, which was attended by 700 members. She reminded the audience it represents 310,000 members. Mrs Ip defended the government

against claims that Hong Kong was not ready for the legislation because it had not developed an elected government to provide the necessary checks and balances. "Don't believe democracy will be a panacea. Adolf Hitler was returned by universal suffrage and he killed seven million Jews," she said. (SCMP 29.10.2003)

The reference to trade union support was regarded as particularly gratuitous; given that Beijing controlled unions operated strictly on a top down basis, invariably adopting policies defined by the national leadership. While the pro-Beijing unions may have a notional membership of 310,000, their members would certainly not be allowed a democratic vote on issues like the Article 23 proposals. As a result, the pro-Beijing Federation of Journalists loyally supported the proposed legislation, while the independent Hong Kong Journalists Association strongly opposed it.

Meanwhile, the remarks about Hitler became a topic for heated debate in Hong Kong letters to the editor and talk back radio. Christine Loh Kung-wai, a former popularly elected member of the Hong Kong Legislative Council (LEGCO), was quoted as saying that the Hitler remark showed Mrs Ip's "ignorance".

...Ms Loh, the chief executive of the Civic Exchange think-tank, said: "Mrs Ip's choice to use Hitler to illustrate the failures of democracy in Hong Kong is extremely unfortunate for her, for the government and for Hong Kong. It shows the government in an extremely poor light - there is much ignorance at the most senior ranks of government about world history." Ms Loh said that although Hitler had the support of some sections of the German population, he never gained an elected majority. (SCMP 30.10.2003)

Ms Ip further inflamed opposition when, on the eve of the July 1 mass rally, she said that the government would not be pressured by demonstrations. "We also cannot rule out the possibility that some citizens may join it as a kind of activity because it's a holiday," she said. (SCMP 29.6.2003)

July 1 Protest

More than half a million people took to the streets on Hong Kong on July 1, 2003, to demonstrate against the Article 23 legislation.

The huge protest had been called to mark the sixth anniversary of the handover to China and was timed a week before the government's proposals would be presented to the LEGCO. It had been organised by a loose coalition of government critics, the Civil Human Rights Front, and included NGOs such as the Catholic Church, the Hong Kong Democrats, Emily Lau's Frontier, and the Foreign Correspondents Club. It became the largest political demonstration in Hong Kong's history.

The *Standard* headlined "500,000 show anger at stubborn' rulers". It reported Hong Kong had not seen such an "outpouring of frustration and anger on a scale not seen since the Tiananmen Square protests of 1989":

The massive crowd, estimated by organisers at up to 500,000, jammed main roads from Victoria Park to Government Headquarters in Central for more than six hours, chanting slogans including "Down with Tung Chee-hwa" and "Return rule to the

people". A spokesman for the organisers, Richard Choi, told thousands of protesters in Victoria Park: "We have had enough." Choi, of the Alliance Against Article 23 and the Civil Human Rights Front, added: "We choose to commemorate the sixth anniversary of the handover to show that Hong Kong people are no longer silent and blindly tolerant"... The size of the march, which started at Victoria Park at 3pm and lasted until 9.30pm, far eclipsed earlier estimates of 50,000 to 100,000. (*Standard* 2.7.2003)

The protest dwarfed a sports day held by pro-Beijing unions to coincide with the march.

The *Standard* reported that marchers sang a Cantonese version of the US Civil Rights hymn, "We shall overcome"

Among them was Ms Chan, an executive secretary with a Sha Tin-based multinational company. "I'm here for freedom of news and freedom of speech," the 31-year-old said. "If it's the end of media freedom in Hong Kong, it's the end of Hong Kong." ... Placards and stickers showed why people marched. "We love our country, we love Hong Kong, we love freedom of speech," one said. Stickers on chests read: "No rushed laws" and "We deserve better." Engineering graduate Kevin Ngai, 23, held up a T-shirt reading: "Mr C H Tung step down please." Ngai, who will start job-hunting this month, said he wanted the next Chief Executive to be directly elected. (*Standard* 2.7.2003)

The *South China Morning Post* reported that "When almost 10 per cent of a population noted for its political indifference hit the streets to protest yesterday, the government was presented with clear proof it was time to listen to the voice of the public." Pro-Beijing legislators were jeered when they appeared in public:

The Wan Chai office of the pro-Beijing *Ta Kung Pao* newspaper was also not spared the public's rage. Protesters stuck hundreds of posters on the front gate of the office showing Chief Executive Tung Chee-hwa being silenced by a cake thrown in his face. An employee of the newspaper said nobody from the management dared come out to clear the mess. (*SCMP* 2.7.2003)

Ta Kung Pao had pursued a pro-Beijing political line since colonial times. While it rigorously reported on anti British demonstrations, it regularly ignored the mass demonstrations against Beijing. Its editor-in-chief , Tsang Tak-sing was rewarded after the handover with a place in Tung's cabinet.(Knight/Nakano 1999 p8)

The July 1 demonstration received massive, world-wide coverage. But not in China. As Tsang Tak Sing had observed in 1997, there were things that could publish in Hong Kong but which could not be written on the mainland. The self censorship which Kin Ming Liu feared would become the norm in Hong Kong was still prevalent in the motherland. Agence France Press reported that China's major newspapers simply ignored the Hong Kong demonstrations:

Instead, the state-controlled press focused on comments by Premier Wen Jiabao supporting Hong Kong's leaders and the need for "understanding, trust and unity" as well as "confidence, courage and action". "Hong Kong's future will be shaped by the people of Hong Kong," Wen said at a Hong Kong cocktail party, the English-language *China Daily* reported. (AFP 2.7.2003)

Aftermath

The size and enthusiasm of the massive demonstration clearly shocked the Hong Kong leadership and its Beijing backers. Reaction was swift.

Within a week, James Tien, a member of the pro-business Liberal Party, resigned from Tung's Executive Council, warning that he could not support the passage of the security

bill through LEGCO. Tien said he had no other choice. It was, the Liberal Party chief said, difficult to serve as an Executive Councillor while holding a different view from that of the government. (Radio Television Hong Kong 7.7.2003)

Rumours spread on the Internet that Tung Chi-Hwa would be the next to go.

The *Hong Kong Economic Journal* wrote that the government's errors in policy making, mistakes in administration, and indifference to public sentiment were the most important factors causing the social crisis. The government blamed everybody but itself, the *Journal* editorialised:

A government that answers to the people, and has a sound accountability system, will give top priority to the consideration of the people's interests, public opinion and social influence when it is making a law or a policy. Such a government will respect the people's right to know, and take on the responsibility to explain to the people, to hold a dialogue with the people, and to communicate with the people. The demonstration of half a million people shows that the government has not fulfilled its duty of giving explanations, holding dialogues, and undertaking communication. (HKEJ 9.7.2003)

EXCO's aggressive spokesperson, Regina Ip paid for her failure to win over the Hong Kong population with an unexpected end to her stellar career. A woman who only a year before had been touted as a possible successor to Tung was retiring early to pursue academic studies and spend time with her family. The British *Independent* newspaper did not accept the official explanation. "Hong Kong: Two cabinet ministers, both publicly vilified, have resigned," it reported. "Antony Leung, the Financial Secretary, bought a \$

100,000 car just before he announced a rise in car tax. Regina Ip, the Security Secretary, backed the subversion Bill, defeated amid massive outrage.” The *Independent* reported. (*Independent* 17.7.2003)

Singapore’s *Straits Times* noted that a University of Hong Kong opinion poll showed that her popularity plunged from 53 per cent in June to 34.6 per cent, making her the most unpopular of the 14 principal officials in Mr Tung's Cabinet. (*Straits Times* 17.7.2003)

Consider the forthright views of John Chiu from Sai Kung who wrote to the *South China Morning Post*'s News Talk Back section, responding to the question, “ How should Hong Kong remember Regina Ip?”

... Regina Ip Lau Suk-yea should be regarded as a selfish and self-centred official who, on the one hand, occupied a highly paid government job, wasting taxpayers' money, while on the other voluntarily acted as the central government's shoe-shine girl, maximising political points for herself for future opportunities. ... I don't see a trace of patriotism in her case, just the silhouette of an opportunist. What we have seen is that she has always been capitalising and maximising the future return from Tung Chee-hwa and mainland officials for herself. She responded to queries from legislators and the public with contempt: you guys don't like it, so what? As long as I have the blessing of my boss, my pay cheque and future will be secured. ... It is the misfortune for the Hong Kong people to have to feed such people under the present system, which breeds, free of charge, running dogs for the central government. The most annoying and insulting thing is to see the word "patriotic" being used so loosely nowadays. It is absolutely sickening. Patriotism is a sacred concept. These people have totally degraded and disgraced the word. (SCMP 5.8.2003)

The two resignations were seen as a way of defusing tension so that the Tung government might regain the confidence of the Hong Kong people.

The *China Daily* reported that the departures of Ip and Financial Secretary Leung had sent "shock waves" through the local political arena. It cited "personal reasons" given by Ip for her resignation. It failed to mention Article 23. (*China Daily* 17.7.2003)

The *South China Morning Post* editorialised that the verdict on Regina Ip was a harsh one. "The so-called iron lady left office ... knowing that she had become Hong Kong's most unpopular minister." it said. What had been previously seen as her strong leadership had proved a political liability.

So what went wrong? The answer can be expressed simply: Article 23. Mrs Ip may have enjoyed public backing for her unwavering attacks on right-of-abode protesters and student activists. But attack was the wrong approach for Article 23; a charm offensive, directed to persuasion, was needed when handling the sensitive plans for national security laws. (SCMP 25.7.2003)

Within days of the announcement of the resignations, Tung Chi-Hwa left Hong Kong for Beijing for what was described as "a duty visit" to brief the national leadership.

His appointed government remained deeply unpopular with the largely unenfranchised electorate. In a letter to the editor, Kitty Ng Yuen-Chun of Yau Mei Tei wrote that the government's inability to listen to the grass roots was deplorable:

What made us despair is the government's irresponsible conduct, lack of dependability and concealment of misbehaviour in its top ranks. People marched on July 1 over the Article 23 legislation, but they also clearly expressed these grievances about the government. The demonstration on July 9 further indicated this.

For 15 minutes, the crowd demanded that Chief Executive Tung Chee-hwa step down, which is quite astonishing. It was a signal for his government to think carefully about what it has done and why society is angry. Kitty Ng Yuen-Chun, Yau Ma Tei (SCMP 29.7.2003)

The government's public relations problems if not its attitude to critics was seen to symbolised by the actions of the Chinese General Chamber of Commerce representative in LEGCO, Philip Wong Yu-hong. Wong was aboard a government minibus taking him through a crowd of 50,000 protesting against the Article 23 legislation outside the LEGCO building on July 9. While being broadcast live on television, Mr Wong was seen to grin and raise the middle finger of his right hand to the crowd. His rude gesture sparked 290 complaints to the Hong Kong Broadcasting authority. Wong subsequently apologised for being affected by drink, claiming he was responding to a similar gesture from the crowd. (SCMP 17.8. 2003)

It was becoming clear that even the government's strongest supporters were getting nervous of the political consequences of press ahead with Article 23. The Hong Party closest to Beijing, the Democratic Alliance for the Betterment of Hong Kong urged Tung to wait until after Hong Kong's elections to reintroduce the Article 23 proposals. (*Christian Science Monitor* 8.9.2003)

On September 5, Tung Chee-hwa, announced that the national security bill had been withdrawn. He said the decision was taken in the Executive Council and that no new deadline had been set. Mr Tung said it was more important for the government at present to focus on improving the economy.

Speaking on Radio Television Hong Kong (RTHK), Tung said he had seen the adverse views and concerns expressed in the community about Article 23 . As result, he needed to re-examine the whole issue. “Until there is sufficient consultation and the support, we are not going ahead with the legislative process,” Tung said. (RTHK 59.2003)

The Chinese national news agency Xinhua reported that Beijing approved of Tung’s decision but had warned that legislation would have to be passed eventually (Xinhua 8.9.2003)

The *China Daily* described Tung's attitude as responsible and pragmatic. (CD 8.9.2003)

China Daily

Article 35 of the Constitution of the Constitution of the People’s Republic of China states that its citizens “enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.”

(<http://english.peopledaily.com.cn/constitution/constitution.html>) However there is overwhelming evidence that these rights are commonly breached in mainland China where the press is strictly controlled and critical demonstrations suppressed.

The official English language voice of the Beijing government, the *China Daily*, reported only intermittently and selectively on the debate over Hong Kong’s Article 23. It should

be noted that *China Daily* was established as a national newspaper, covering the whole country including Hong Kong. The issues, events and individuals who were not reported in these articles help illuminate the state of contemporary free speech, if not active censorship, in China.

A search of the Lexis Nexis database revealed only eight news reports about the Article 23 controversy, published by *China Daily* between July 2002 and September 2003.

All but one of these articles were sourced to Chinese or SAR officials, notably Foreign Minister, Tang Jiaxuan, Chief Executive, Tung Chee-hwa and Foreign Ministry spokesmen. Tung Chi-Hwa was reported four times. The exception was the British Prime Minister, Tony Blair, who visited Hong Kong in July 2003. Mr Blair was selectively quoted as telling the British Chamber of Commerce that maintaining stability was crucial to the city's success. (CD 24.7.2003)

Blair had actually argued that economic and political progress were inter-twined. Hewas quoted by the Hong Kong based *South China Morning Post* as saying: "Hong Kong, if it handles the next few years well, as I believe and hope it will, can also be an example of how political progress can be made without damaging its stability." (SCMP 24.7.2003) Meanwhile, the London *Guardian* reported that the British government would be watching Mr Tung. "What people in Hong Kong want of course is to preserve the basic freedoms that make Hong Kong special," he said. "That was the whole basis of the 'one country, two systems' proposals." (Guardian 24.7.2003)

The transcript of Mr Blair's speech was even more revealing. Mr Blair said that the Hong Kong government's decision to review Article 23 legislation, following the mass demonstrations against it, showed the flexibility in the system. He told the meeting that political and economic confidence went "hand in hand". "That concept of choice, driven by globalisation, is not just ... difficult for some economically, it is also difficult for some politically," he said. "As the events of 11 September demonstrated, there are those who hate the very idea that their fellow citizens should be free to choose, free to examine the products and ideas of other culture". (Blair 23.7.2003)

Internal critics of the new security laws, who included Hong Kong business leaders, church ministers and priests and elected members of the Legislative Council, were never quoted or indeed named or otherwise individually acknowledged. The *China Daily* was primarily concerned with Jurisdiction, what it saw as China's historic right to govern Hong Kong. It also frequently mentioned security and the need for stability. Freedom of speech was not stressed as an issue.

The *China Daily* articles failed to report on the mass demonstration held in Hong Kong on July 1 2003, but did refer to official reaction to it. There were no estimates of the numbers making up the half million strong crowd, which was referred to as "a large number of Hong Kong residents". (CD 4.7.2003)

On the day of the mass protest, Chinese Foreign Ministry spokesman Kong Quan said the draft ordinance upheld, "the rights and freedoms of the Hong Kong people on the basis of the Basic Law and it also conforms with regulations which apply two [sic] international human rights conventions". When asked to comment on the opposition from the US and Britain to the legislation, Kong said, "such assertions are unacceptable". He added that the legislative process in Hong Kong was "democratic and transparent following in depth consultations". (CD 2.7.2003)

A briefing given by the Foreign Ministry two days later, quoted a news release from Tung Chi-hwa who said that the SAR government "fully understood" the importance the community attached to their rights and freedoms. "We shall continue to take active steps to maintain and safeguard rights and freedoms and develop democracy in an orderly manner", Tung was reported as saying. (CD4.7.2003)

On July 17, Tung announced that his administration had "deferred" the second reading of the National Security Bill. "We believe that the community needs to have a calm atmosphere and we need to really stand united in front of all these challenges," he said. He appealed for calm and said he would work to better understand public concerns. (CD 18.8. 2003)

On August 19, the *China Daily* quoted Hong Kong's new Secretary for Security, Ambrose Lee, who promised to keep an open mind on Article 23. "When asked whether he had learned from his predecessor, Regina Ip, who 'crossed fire' with many legislators, Lee said it is most important to talk fact and respect one another". (CD 19.8.2003) As

reported earlier, The *China Daily* did not report that Ms Ip had been forced to resign because of her outspoken support for Article 23 legislation. Criticisms of Ms Ip were, in contrast widely, reported in the Hong Kong press.

Tung announced the withdrawal Article 23 legislation on September 5. The *China Daily* reported that he had no timetable for introducing a new bill. “I have heard a lot of views and learnt [sic] that the people are most concerned about the economy. I feel society should devote its energy to improving the economy and creating more job opportunities,” Tung was quoted as saying. (CD 6.9.2003) A *China Daily* editorial subsequently described Tung’s attitude as “responsible and pragmatic”. His decision demonstrated that the SAR “enjoys a high degree of decision making power”, it said. (CD 8.9.2003)

Conclusion

It seemed that “One Country two systems” was working in China in 2002, at least as far as freedom of speech was concerned. Public and private comment on the Article 23 proposals was consistent, coherent and comprehensive. In Hong Kong, critics of the government were extensively reported in the mainstream press, maintained their own websites and were free to be reported in the international media. Letters to the editor were effusive and frequently vehement. Government officials were subjected to biting satire and caricature. Mass demonstrations were repeatedly organised and staged, with minimal police intervention.

In contrast, the main land Chinese press largely ignored the political crisis developing in the Hong Kong Special Administrative Region. *China Daily*, Xinhua and other mainland publications seemed to operate as a selective media release service for senior government officials. Critics were ignored, as if they did not exist. When issues related to Article 23 were reported, stability rather than human rights was the issue. It was clear that China's "One Country two systems" did indeed allow Hong Kong to discuss free speech issues un-reported in main land China.

Tung Chi-Hwa was wrong when he confidently predicted that the majority of Hong Kong people would support the Article 23 proposals. A billionaire patrician with little experience in populist politics, he learned of criticisms of his unelected Executive through the free speech exercised by the Hong Kong population. Free discussion in Hong Kong contributed to half a million of his fellow citizens taking to the streets to demand that the government withdraw the legislation. Much of the Hong Kong and most of the international press agreed that political pressure resulting from this mass action resulted in the resignation of the government's chief advocate for Article 23 legislation, Regina Ip. The new Security Secretary subsequently withdrew the legislation to be re-introduced at a date to be fixed. It was therefore demonstrated not only that free speech could continue in a non-democratic system of government. It also seemed that open debate could influence that government's decisions.

It should be remembered however that Hong Kong's appointed government, which introduced the Article 23 proposals which NGOs and independent journalists associations saw as so draconian. Had there not been active opposition, the legislation would almost certainly have been passed by a compliant, limited franchise LEGCO. If that had been the case, critics may have found it much more difficult for their views to be heard.

Free speech exists not only because it is endorsed by governments. It flourishes only when people defend its practice.

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- Welcome message

http://www.info.gov.hk/basic_law/facts/content.htm

- Some facts about the Basic Law

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