

## 基本法第二十三條公眾意見匯編研究組

### RESEARCH TEAM ON THE COMPENDIUM OF SUBMISSIONS ON ARTICLE 23 OF THE BASIC LAW

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#### Selected Case Studies

##### A. *Homogeneity within District Level Resident Groups*

1. While it has been found that 44.2% of all group submissions came from community groups, more than half of the total number (266) of community groups were district based resident associations or resident unions (居民聯會), district level community associations (各界聯會), district level people association or inhabitants association (居民協會), district level resident committees (居民委員會), district level community affairs associations (社區協進會), district service offices of the Hong Kong Federation of Trade Unions (FTU, 工聯會地區服務處), the resident groups under the FTU service offices (工聯會地區服務處住區小組), Kai-fong welfare advancement associations (街坊福利會) and a number of clans associations (同鄉會) which are not district based.
2. Regardless of different names of these district based organisations, all invariably support the implementation of Article 23. The majority of the community group submissions (433, 87%), with only a few exceptions were brief in content (consisted of only 1 short page), and most did not give any comment nor suggestion to any part of the consultative document. The content of these submissions supporting the implementation of Article 23 usually include:
  - ◇ Unanimously supported the implementation of Article 23 (96% and 95% to the principle of legislation and the content of the consultation document respectively);
  - ◇ It was timely to do so and it is welcome by people in the district;
  - ◇ The central government had given the power to the SAR to make laws for itself – this was already very lenient. It showed the respect and trust to Hong Kong people;
  - ◇ It was necessary to protect national security by means of Article 23;
  - ◇ The proposed laws had not reduced the civil rights and liberties enjoyed by Hong Kong people; and
  - ◇ The opposers were only those who have misunderstood or are being misled, or those who fundamentally oppose and mistrust the “One Country, Two Systems” policy. The former needed clarifications and civic education; while the presence of the latter proved the importance of making laws to prevent the disruption of national security.
3. Only eleven submissions of this type have touched on certain specific content of the consultation document. One of the most typical examples is the East Kowloon District Resident Committee (東九龍居民委員會, A382) whose submission contained 3 pages.

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It touched on the content of subversion, secession, sedition, theft of state secrets and investigation power. But all supported the proposals in the consultation document.

4. Forty-two district based organisations in the New Territories used a standard letter prepared by the New Territories Association of Societies (新界社團聯會). These standard letters were printed on the letter paper with a logo and the letter head of the New Territories Association of Societies (新界社團聯會). The content of the letters included a standardized statement and a caption which showed full support to the HKSAR Government to implement Article 23 of the Basic Law. Seven resident associations adopted the same standard letters, but have made slightly more efforts in doing away the logo and the letter head so as to make it look better like an independent submission.
5. In sum, despite different names used for the resident organisations in various districts, *there appears a rather obvious homogeneity within a great number of submissions from these community groups, in terms of both the format and the content. There may not be sufficient evidence to show political mobilization behind these group submissions, but the high degree of convergence between groups from different districts reasonably suggests that the opinions submitted appear to be more or less organised rather than independent.* However, more indepth studies are warranted in order to establish this observation.

#### ***B. Submissions in Different Districts***

1. If we divide Hong Kong into three main regions: Hong Kong Island, Kowloon and the New Territories (N.T.) which include the outlying islands, we can find that the greatest number of group submissions (including community, labour and business) with district or regional affiliation came from the New Territories, and the total number of these groups is 270. If we discount the groups which have no district-wide or region-wide affiliation, the N.T. have taken up more than half of the district based submission. Great majority of these group submissions from the N.T. invariably supported the government proposal, where many of them (42 in total) adopted the same standard letter of the New Territories Association of Societies (新界社團聯會). Some others (12) used the letter head prepared by the New Territories Youth Council (新界青年聯會).
2. One of the distinctive features in the N.T. is that there are a number of co-operatives or mutual-aid societies (合作社或互助會), all belong to the fishermen. Another feature is the rural affairs committee (鄉事會). The views expressed in different rural affairs committees and the co-operatives are highly homogeneous, *to the extent that almost all submissions from the fisherman's co-operatives, mutual aid societies and other fisherman's groups have used the same standard letter prepared by the Joint Committee of Hong Kong Fisherman's Organisation (香港漁民團體聯席會議). This standard letter, ironically, is almost identical with the one prepared by the New Territories Association of Societies (新界社團聯會), with only slight difference of wordings in the caption.* One

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fisherman's group called "Hong Kong Fisherman's Mutual Aid Society Cheung Chau Office" (香港漁民互助社長洲辦事處) even used the standard letter prepared by the New Territories Association of Societies (新界社團聯會) for its submission. *There are obvious evidence showing that submissions from many groups in the N.T., despite using different names, are highly homogeneous if not identical.*

3. If we break down the N.T. region into different local districts, Tsuen Wan and Kwai Ching is the largest single district where the greatest number of group submissions have been produced. The total number of submissions exceeded 30. Taipo is the second largest source of production of group submissions (26), followed by Sai Kung (19) and Shatin (13). These four districts have taken up one third (33%) of all submissions from the N.T.
4. In almost every district regardless of the number of district-based submissions, *there appears a similar pattern: submission(s) from one or more resident association(s) (irrespective of names); together with one or more women's group(s) or one or more youth/student group(s).* This pattern is almost standard in every district, while different districts would then add on their own features: for example, some would have athletic associations, plus labour union service offices; some other would have rural affairs committee plus fisherman's group, etc. *This pattern, though not very concrete, draws attention to the possibility that some groups were organised, to various extent, to provide uniform views in this public consultation exercise.*

#### C. *The FTU*

1. The FTU can be regarded, in some sense, as the most powerful single organisation which has encouraged the greatest number of opinion submissions from local district associations. The total number of FTU affiliated district organisational submissions is 57, that is 11.5% of total community submissions. Within FTU affiliated district group submissions, the greatest number (29) came from the N.T. South District Service Office (新界南地區服務處). *Most of these submissions bear the name of different resident groups in the district (住區小組), but all use the same standard letter.* The content of the standard letter include:
  - ◇ Iteration of position – support implementation of Article 23;
  - ◇ Reason for support – protect national security; would not hurt those who are innocent; and
  - ◇ Would not tolerate a small minority of wrong doers (敗類) who make use of the power of foreign countries to disturb the prosperity and stability of Hong Kong and China.
2. FTU Kowloon Central District Service Office can be regarded as the second most effective producer: 12 submissions have been produced from various resident groups (住

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區小組) and district executive committees (地區幹事會). Not all of these letters are identical, but their contents are very similar. Most submissions contains only one paragraph with 3 to 5 lines, simply stating the support for implementing Article 23.

3. With the exception of the submission from FTU Kowloon East District Service Office (A000169), *none* of the submissions from FTU affiliated district groups has touched on the proposed laws. Almost all only iterate a straight-forward political position. From the high degree of homogeneity between submissions from FTU affiliated district groups, it is reasonable to suggest that FTU affiliated groups are expressing an organised and uniform political stance rather than discussing the consultative document independently. *If this suggestion is true, it then casts doubts on the value of this type of public consultation, where groups and associations are organised, and perhaps to a lesser extent polarized, towards simple expression of political position rather than attempting to give thoughtful comments on the actual laws being proposed in the consultation document.*

#### D. Homogeneity in Women and Youth Groups

1. There are 61 submissions bearing the name of women's groups or women associations, of which 51 are district based. Interestingly, **all** invariably supported the implementation of Article 23. Out of these district based submissions, 20 (39%) are submitted in 2 different sets of standard letter, one of which is prepared by the New Territories Association of Societies (新界社團聯會), while the source of another set could not be identified. Some associations submitted both a standard letter prepared by the New Territories Association of Societies plus a separate letter. Although the contents are very similar, they have served to increase the number of submissions.
2. Besides the standard letter submissions, there are 6 district based submissions which contains only one statement of support. This statement is very much similar to the captioned statement provided by the New Territories Association of Societies. If we add these with the standard letters, *we can find that slightly more than half (51%) of the submissions from district-based women's group are homogeneous to a very high degree.* Among the homogeneous submissions, 17 (65%) are from the N.T. (including outlying islands), while the others are all from southern district on Hong Kong island.
3. Similar situations can be found in submissions by youth groups where 38 submissions from 26 youth organisations were received (several organisations submitted more than 1 submission). There are two sets of standard letters being used: one prepared by the New Territories Association of Societies (新界社團聯會), while another prepared by the Federation of New Territories Youth (新界青年聯會). However, in actual fact, these two sets of standard letters are completely the same, with the exception of the name of the organisation and the letter head. *Added together, 12 submissions out of 26 youth organisations in N.T. (46%) used a uniform letter in their submissions.*

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4. Not only that submissions are found standardized and uniform in a significant number of the N.T. youth organisations, similar situation has been found in other districts in Kowloon and Hong Kong. For example, *the submission from the Kowloon City Youths Association (九龍城青年協進會), which is not in standard letter form, is found exactly identical with that of the Kowloon City District Women Association (九龍城區婦女協進會) and the Kowloon City Resident Association (九龍城區居民聯會).*

#### E. Other Social and Cultural Groups in the Community

1. *There are 20 submissions from various social or cultural groups, whose nature spans from Chinese opera to literature; from dancing to book reviews; from photography to poetry; and from calligraphy to cultural interchange, all adopted one identical uniform letter in their submissions. Unlike the standard letter prepared by the New Territories Association of Societies (新界社團聯會), this uniform letter bore no letter head, but had exactly the same format and content. The only difference is the name of the association which was written on the right hand bottom corner of the letter. For easy reference, the names of these associations are listed below:*

香港硬筆書法協會	香港紫荊藝術團
香港華夏文化傳播聯會	香港雅樂藝術團
海峽兩岸科技交流促進會	海燕普通話宣教學會
動感文學藝術原創發展協會	新暉藝術團
福建旅港中醫藥學會	聯慧義務工作協會
香港創藝攝影學會	香港散文詩學會
八和京劇雅集	香港文學促進協會
香港木蘭歌舞團	香港民族藝術團
香港書評家協會	香港朗讀學會
香港特區越劇院	香港健社雅集

2. Among these uniformed submissions, 9 (45%) were submitted on 28 November 02, and 7 (35%) on 1 December 02. Another 2 were submitted on 5 December 02, and two others respectively submitted on 17 December and 18 December 02. *From the proximity of submission dates and the high degree of homogeneity of the standard letters, it is hard to explain why so broadly diverse social and cultural groups have exactly the same submissions, and it is also reasonable to doubt whether it is a result of organisation. If this is true, it would be amazing to see how penetrating it is for public opinions to be organised within and across districts, unions, associations and even social and cultural groups.*

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#### *F. The Hon Wah Middle School*

1. The team identified 67 submissions by students of Hon Wah Middle School (漢華中學). Judging from the contents of these submissions, we have reason to believe that they were written to fulfill an assignment given to students of the Sixth and Seventh Forms who had attended a seminar on the implementation of Article 23 of the Basic Law. This was probably part of the civic education program of the school.
2. Amongst these submissions, most (55, 82.1%) were in favor of legislating Article 23 in principle. Only 3 (4.5%) expressed opposite opinion. When it came to the stands on the government proposals, slightly fewer than half (31, 46.3%) of them were in favor whereas 26 (38.8%) were not.
3. The government categorized 28 (41.8%) of these submissions as being supportive of Article 23 legislation. Majority of these cases (36, 53.7%), however, were considered unclassifiable as either supportive or opposing.
4. Despite the closeness in the percentages of support in the government's categorization scheme as opposed to the team's based on the expressed opinions on the government proposals (Stand2, 41.8% vs. 46.3%), a crosstabulation revealed that the classifications were not very consistent on a case by case basis – only about half of these cases were coded similarly. This could very well be a result of the government's failure to distinguish between stand on legislation in principle and stand on the specific government proposals.
5. A careful perusal of the Hon Wah submissions showed that they were mostly suggestions on how the government could improve the public opinion collection work. This was probably a result of specific instructions given by the civic education teacher for the written assignment.
6. Some of the more frequently proposed options included:
  - ✧ carry out a public opinion survey;
  - ✧ organize more talks and seminars to explain the details of the proposal;
  - ✧ promote the proposal using media, e.g. TV, newspapers, etc.;
  - ✧ publish pamphlets to promote the proposal;
  - ✧ define clearly on some controversial items, e.g. sedition;
  - ✧ consider similar laws applied in the western countries;
  - ✧ invite legal experts to express their views;
  - ✧ listen to public opinion; and
  - ✧ provide for a longer consultation period.
7. Provided that the students were not given (or suggested) the positions to take, and that the submissions were tendered voluntarily, the team does not see much of a problem for schools to encourage students to voice their opinions on public issues in consultation

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exercises like this. As a matter of fact, given the saliency of the issue, it is perhaps one of the best opportunities to engage the students in public affairs discussion. *We are just curious: why weren't more schools doing that?*

#### G *The Legal Profession*

- ✧ There are a number of submissions from the legal profession, including The Hong Kong Bar Association (香港大律師公會), The Law Society of Hong Kong (香港律師會) and other individuals. Most of these submissions were strongly against the enactment of the laws for Treason, Secession, Sedition, Subversion, Theft of State Secrets and Foreign Political Organisations and request for a white bill. Some submissions provide constructive suggestions and some rephased the wordings in the proposal for the Security Bureau to consider. Some emphasized that we have already had laws for Treason, Sedition and Thief of State Secret and could introduce laws for Secession and Subversion after seeking public opinion.
- ✧ There are some special cases in this category:
  - The Hong Kong Bar Association listed 236 items for the Security Bureau to consider (A035);
  - The Law Alumni (Hong Kong) Association, Zhong Shan University (中山大學法律系香港同學會) carried out a survey and collected opinions from 104 individuals. It reveals that 79% of respondents supported the legislation of the Article 23. However, 56 (53%) respondents age between 1 and 15 years old and 33 (32%) between 16 and 26. In addition, 36 (35%) respondents whose highest education level was primary school and 56 (54%) secondary school. The questionnaire also seemed to be a bit misleading (A196); and
  - A submission containing 63 pages is probably part of a thesis/dissertation (B139).

#### H. *Other Special Cases*

- ✧ A submission attached a number of newspaper cuttings about Article 23 (B864).
- ✧ A submission was made by 44 professors from well-known overseas universities (B005).