Doing Justice to Public Opinion in Public Consultations: What to Do and What NOT to Do

A Case Study of the Government's Consultation Exercise on its Proposals to Implement Article 23 of the Basic Law

A Report

by

The Research Team on the Compendium of Submissions on Article 23 of the Basic Law

(Enhanced Version)

10 June 2003

This enhanced version is slightly different from the one released to the press at the press conference held on 26 May 2003 in the following aspects:

The summary section, now in bilingual format, is put at the front of the report for easy reference. This section was also slight revised.

Some new appendices have been compiled, to include the powerpoint slides presented at the press conference, and newspaper clippings of the occasion. The order of the appendices was also changed.

Stylistic changes of the original report here and there.

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Acknowledgment

Members of the Research Team on the Compendium of Submissions on Article 23 of the Basic Law would like to express their thanks to the following persons, without the support of whom this project would not have been possible:

The Concern Group on Article 23 of the Basic Law, for their generosity in funding the project, while observing strictly the covenant of full autonomy to the Team in conducting this study;

Our Honourary Advisor, Dr Clement So, for sharing his expertise in content analysis and eventually getting more and more involved and contributing so much that he is much more than an advisor to us;

The Project Manager, Ms Winnie Kwok, for making all necessary logistical arrangements to ensure that the project progressed within a reasonable time frame and that a quality dataset could come out of the Compendium for our subsequent analyses, and for a fee she donated back to the Concern Group;

Our very conscientious Research Associates, (in alphabetical order of the surname) Rosanna Chow, Anthony Ip, Karmen Kwok, Ka Yan Lai, Gary Lam, Vince Liu, Edmund Ma, Wing Kau Mak, Sylvia Ng, Carson Tse, and Esther Wong, who accepted minimal wages but worked with such dedication and commitment and worked so hard to meet our very tight schedule, that we see in them much hope for Hong Kong.

Last but not least, all those who were concerned enough to take the time and energy to make their opinions on Article 23 legislation known to the Hong Kong Special Administrative Region Government in this consultation exercise, whereby providing our team the substance and drive to undertake this study.

PREFACE

The idea of re-analyzing all of the more than 100,000 public submissions on Article 23 of the Basic Law was first brought up at an Expert Meeting hosted by the Concern Group on Article 23 of the Basic Law on 14 February 2003. The experts attending that meeting were Drs Boris Choy, Clement So and Robert Chung, all of whom became subsequently involved in this project.

Although the three experts had already in other occasions expressed their views on the government's *Compendium of Submissions on Consultation Document on "Proposals to Implement Article 23 of the Basic Law"*, they had never thought that a comprehensive and thorough re-analysis of the submissions was possible, until that date.

Academics are not well organized, and very few scholars can afford the time to take on such no-pay jobs. Had they been paid however, their impartiality could have been questioned. Moreover, if the government could not do the job well with its huge team of officers, how could a few scholars with little resources do it better?

However, three had gathered, and three times three would be nine. That was roughly what has happened, and by 25 February 2003, the Research Team was officially formed. In another week's time, the Project Manager was also recruited. Thanks to the hard work of all the team members and the manager, mission impossible was accomplished in three months' time. Using academic scales, this was rocket fast, and bearing in mind that there was an outbreak of SARS in mid-March.

Now that the original plan has been achieved, team members are thinking of "what's more?" A series of newspaper articles are going to be written in the coming weeks, and some academic articles are already in the pipeline.

Looking backward, we should have thanked the government for not having done the job properly, otherwise there would not be a chance for us to demonstrate our skills. Looking forward, however, we would hope that such dirty and tricky works would never have to be done again, by anybody else.

Robert Chung
Honourary Secretary of the Research Team
June 2003

SUMMARY OF FINDINGS
(Please also see Appendix 12)

The Research Team on the Compendium of Submissions on Article 23 of the Basic Law (the Team) considers Article 23 a very complex issue that it is inappropriate to simply divide the public opinions into three camps of "yes", "no" and "uncertain" as the way the Hong Kong Special Administrative Region (HKSAR) Government did. Careful study of the submissions reveals that a considerable number of people agreed in principle the implementation of Article 23, as it is duly stipulated in the Basic Law, but found most proposals listed in the consultation document unacceptable. This is particularly true in cases that argued for "minimal legislation" of the article. In view of this, our report differentiates the opinions towards Article 23 into two dimensions: the principle (Stand1) and the proposed legislation content in the consultation document (Stand2). Since it is stipulated in the Basic Law that the HKSAR shall enact security laws in accordance with Article 23, the principle is expected to be less controversial. But opinions toward the consultation document, including the content and the timing of enactment, could be severely divided. *Our report advises that we should pay more attention to the opinions expressed towards the specific proposals of the consultation document.*

Public Positions on Article 23 Legislation

1. The Team's study showed that in the about 8,000 independent submissions, 56.7% supported Article 23 legislation in principle (Stand1), 35.5% were against. If only the about 7,000 submissions from individuals were counted, then 52% supported Article 23 legislation in principle, and 39.3% opposed. The group submissions had 82% supported Article 23 legislation in principle, with 14.9% against.

2. For the content of the Article 23 Legislation, if the 8,000 independent submissions were counted, 52.7% supported the proposed legislation content (Stand2), while 44.6% opposed. In the 7,000 independent submissions from individuals, 48.0% were in support while 48.9% were opposed. Seventy-eight percent of the groups supported the proposed legislation content, and 20.3% against.

3. In all the independent submissions, 52.7% supported both the legislation principle and the proposed legislation content (Stand1 and Stand2). 35.5% opposed both in principle and the proposed legislation content. There were 3.5% that supported Article 23 legislation in principle, but opposed its content. Another 5.6% supported in principle but did not express a clear position about the proposed legislation content.

4. If all expression of opinion from all individuals (i.e. including all submissions) was counted, then a total of 369,374 individuals have expressed their opinion. Of these only 34.6% supported the proposed legislation content, while 62.6% opposed.

5. Of the 8,000 independent submissions, 1,694 or about 21% expressed a clear position on whether or not a white bill is needed. Of these 1,016 supported or asked for a white bill

(12.7% of total independent submissions), while 678 opposed (8.5%). For those who have expressed their opinions, the ratio of proponent to opponent of a while bill was roughly 60% to 40%.

Specific Concerns of Citizens

1. For those who supported the proposed legislation content, the most oft-cited reason was that "it can protect national security and interests" (67.7% out of the 4,221 submissions which favored Stand2), followed by "helping stability and prosperity of HK" (39.3%), and "it is stipulated in the Basic Law" (29.6%). Other major reasons given included "to actualize the policy of One Country, Two Systems" (19.9%), "common international practice" (14.0%) and "to better protect human rights" (5.5%).

2. For those who opposed Article 23, the most oft-cited reason was that it would hurt human rights and freedom (66.4% out of the 3,570 submissions which opposed Stand2). The second most cited reason was "it will hurt the policy of One Country, Two Systems" (28.5%). It is followed by that "the [consultation] document is vague and lacks details" (24.3%), "hurting investors' confidence and the economy" (14.0%), "not enough time for consultation" (10.9%), "timing is not right" (10.0%), "the consultation lacks sincerity" (8.4%), and "no need to legislate because the current laws have covered the crimes concerned". (6.2%).

3. Most of the submissions did not mention concerns about the specific provisions in the consultation documents (the proposed legislation content or the so-called "seven crimes"). Only about 10% of the submissions expressed concerns about the specific "crimes". Among them the section on sedition received most concerns (52.8% out of the 864 submissions which showed concerns), followed by police investigation power (47.5%), ties with foreign political organizations (43.1%), theft of state secrets (42.6%), subversion (37.2%), treason (36.6%), and secession (23.6%).

Differences between Our Results and the Government's Report

1. Firstly, the Team distinguished between the legislation principle and the proposed legislation content (Stand1 and Stand2) for Article 23 legislation. This allows us to better look into the details of the true opinions of the public. The Team discovered that about 9% of the submissions agreed or were uncertain to the principle of Article 23 legislation, but opposed the proposed legislation content in the consultation document.

2. The percentages of the public that were in support and opposed Article 23, as reported by the government, was slightly different from the Team's Stand1 or Stand2 figures. A major reason was that the government put some 15% of the cases into Category C (uncertain), whilst the Team found that a lot of these Category C submissions could be categorized into positions of "support" or "oppose." In the 1,068 Category C cases, our classification showed that in fact 796 (74.5%) were opposed to the proposed legislation content (Stand2) while 100 supported (9.4%). Only 16.1% of these cases were classified as "uncertain."

3. The Team think there is no reason to treat "standard letters" and "signature forms" differently. Both were simple expression of opinion by signing a name on some pre-designed forms. If they are treated the same and the opinions of all individuals were counted the same, then the Team found that 62.6% opposed the proposed legislation content, in comparison to the 34.6% supported.

4. The government's report did not include analysis of the detailed content of the submissions, including reasons for supporting and opposing, and the major concerns of the citizens. The Team's analysis on the reasons for supporting and opposing the consultation document, and the views on specific provisions, can help to address the exact concerns and is more useful in improving the policy document.

Other Analyses

1. Group submissions had 78% supporting versus 20.3% against the proposed legislation content (Stand2). Among the groups the business groups, labor groups, community groups had a very high percentage of supporting (87%, 86% and 95% respectively). The political groups (26% support and 65% against) and religious groups (9% support and 91% against) were generally against legislation.

2. The submissions from a lot of community groups were almost identical in content and even format, similar to "standard letters." These community groups spanned a wide range of nature, but many of their submissions had similar content.

3. Submissions in English had an overwhelming ratio of opposing the proposed legislation content (81.7% opposed vs 12.2% supported, 1,370 submissions in total). The 6,601 submissions in Chinese had 36.6% opposed and 61.4% supported.

4. The submissions that are longer in length had a higher percentage of opposing the proposed legislation content. For example, the 1-page submissions had 55.0% supported but 42% opposed the legislation, while for the submissions that were 5-page long or above, 72% were opposed and 23% supported the proposed legislation content. If the length of the submission was used as a measure of quality of opinion, then more of the better-thought-out submissions were opposed to the legislation.

5. Public opinion on Article 23 had a definite time trend. From 16 September 2002 to the end of October, about 70% of the submissions were in favor of the proposed legislation content. The submissions in November saw an overwhelming support (88.4% support). But among the submissions after 16 December 2003 which constituted 42% of all the submissions, 70% of were against the legislation.

6. The overseas submissions were overwhelmingly opposed to the proposed legislation content (97.6% opposed and 1.4% supported). If only the local submissions in the 8,000 independent submissions were counted, then 63.2% supported the proposed legislation content, and 33.7% opposed.

7. For the standard letters, 86% of the letters were in support of the proposed legislation content, with 13.6% opposed. In terms of the number of people represented by the letters, 65% (54,001) supported the legislation, and 34.7% (28,677) opposed to the legislation among those who submitted standard letters. For signature forms, about 71.7% (196,745) opposed legislation, with 24.7% supported (67,633).

Comments and Suggestions on Government's Consultation Exercises

1. The major problem of the government's consultation this time is the failure to use an appropriate method to collect quality opinions. The consultation document did not provide options nor discussion points concerning the specific legislation proposals for public discussion, resulting in citizens' oversimplified expression of their stands and emotionalizing the discussion process and further enhancing social polarization. Our study shows that only 10% of the submissions mentioned the specific provisions in the consultation document. And the government Compendium just focused on whether citizens supported legislation or not., without analysis of citizens specific concerns. If what the government wants is just simply the answer to the question "Whether support legislation or not?", a scientific public opinion survey could serve the purpose. The conduction of a three-month long territory-wide public opinion collection just to get a "Yes/No" answer is undoubtedly a waste of social resources.

2. During consultation, the government did not clarify how the opinions would be analyzed. The Team's analyses showed that different ways of counting can result in different interpretation. In fact the Team also see that 1) the government is unclear of the definition of "support" (Does it mean to support legislation in principle or to support the proposed legislation content?); 2) its ways of counting are also not convincing (Why were standard letters and signature forms treated differently?). This would just give the public an impression that the government cheated in the consultation process, damaging the credibility of consultations alike in future.

3. Specifically speaking, we have the following suggestions for similar large-scale consultations of the government in the future:

   (1) The government needs to clearly define the key points for collecting public opinion, as well as providing options;

   (2) Be fair in treating all opinions expressed, preferably state the analysis strategy before the consultation; and

   (3) Appoint an independent organization to collect public opinion and carry out analyses to enhance credibility.

(   )

Stand1   Stand2

1.   8,000   56. 7
          (Stand1)   35. 5   7,000   52
                    39. 3   82
     14. 9

2.   (Stand2)   8,000   52. 7
          44. 6   7,000   48. 0
          49. 1   78   20. 3

3.   52. 7   35. 5
                    (Stand1 and Stand2)   3. 5
          5. 6

4.   369, 374
                    34. 6   62. 6

5.   8,000   1,694 (21)
     1,016   (12. 7)   678
          8. 5

1.　　　　　　　（Stand2)　　　　　　　　　　　　　　　　　　4, 221
　　　　　　　　　　　67. 7　　　　　　　　　　　　　　　　　　（39. 3
　　）　　　　　　　　　　　　　　　　　　　（29. 6　）
　　　　　　　　　　　（19. 9　）　　　　　　　　　　（7. 3　）
　　　　　　　（5. 5　）

2.　　　　　　　　　　　　　　　　　　　　　　　　（　3, 570
　　　　　　　　66. 4　　　　　　　　）
　　　（28. 5　）　　　　　　　　　　　　　　　　　　24. 3
　　　　　　　　　（14. 0　）　　　　　　　　（8. 4　）
　　　　　　（6. 2　）

3.

　　　　　　　　　　　　　　　　　　　　　　（　864
　　　　　　　52. 8　　　　　　　）　　　　　　　　　（47. 5　）
　　　　　　（43. 1　）　　　　　（42. 6　）　　（37. 2　）　　（36. 6
　）　　　（23. 6　）

1.　　　　　　　　　　　（Stand1)　　　　　（Stand2)
　　　　　　　　　　　　　9

2.
　　　　　　　15

3.
　　　　　　　　　　62. 6　　　　　　　　34. 6

4.

1.　　　　　　　　78. 0　　　　　　　　　　20. 3　　　　　　　　　　　　　　　（87
　　　　）　　　　（86　　　）　　　　　　（95　　　）
　　　　26　　　　　　65　　　　　　　　　　　　　　　　9　　　　91

2.

3.　　　　　　　　　　　　　　　　　　（81. 7　　　, 12. 2　　　　　1, 370　）
　　6, 601　　　　　　　　　36. 6　　　　　　　61. 4

4.　　　　　　　　　　　　　　　　　　　　　　　　55. 0
　　42. 5　　　　　　　　　　　　　　72. 0　　　　23. 2

5.
　　　　71. 5　　　　　　　　　　　　　　88. 4

　　42　　　70. 3

6.　　　　　　　　　　　（1, 363　97. 6　　　　1. 4　　）
　　　　6, 645　　　　　　　63. 2　　　　　　33. 7

7.　　　　86
　　54, 001　（65. 3　）　　　　　28, 677　（34. 7　）
　　　　71. 7　（196, 745　）　24. 7　（67, 633　）

1.

　　10

2.

1)

2)

3.

(1)

(2)

(3)

FOREWORD

As social researchers, we believe that responsive governance is good governance – government decisions and policies should respond to public views and demands. Our government itself has always claimed that it attaches "great importance to comments from the public" (See "We welcome your views" section, in *Consultation Document on "Proposals to Implement Article 23 of the Basic Law"*). But mere acknowledgment of the notion is not adequate; it is important that we strive to ***do justice to public opinion***, failing which there is no point in talking about government responsiveness. By "doing justice to public opinion", we mean that ***the right instrument has to be used, and the instrument has to be used right, in a genuine effort to gauge what the public really think and want***.

The Research Team on the Compendium of Submissions on Articles 23 of the Basic Law (the Team) conducted this project in order to assess how well the Hong Kong Special Administrative Region (HKSAR) government fared in this respect. We drew on a case study of the government's high-profiled public consultation exercise on its proposals to implement Article 23 of the Basic Law, which is one of the most controversial issues in post-handover Hong Kong.

The legislation of Article 23 is indeed contentious. The government reported that during a mere 3-month consultation period spanning from 24 September to 24 December 2002, a total of 100,909 submissions (of which 97,097 were local), representing views of 369,612 individuals (340,513 from Hong Kong) and over 1,000 organizations, were received which were compiled in the Compendium of Submissions on Article 23 of the Basic Law (the Compendium). The supporting camp and the opposing camp alike had staged extensive mobilization campaigns. Tens of thousands of people took to the streets. On this subject matter where public views have shown to be quite polarized, it is ever more important that justice has to be done and be seen to be done to public opinion. If we talk about single issue saliency, this case would rank high up on the list.

Specifically, we are interested in finding answers to the following questions:

✧ How the government went about soliciting and collecting public views;

✧ What it has collected;

✧ How the wealth of information received during the consultation exercise was handled and analyzed; and

✧ What conclusions were being drawn.

Answers to these questions would be pivotal in deciphering whether the instrument of public consultation has been used right on this occasion and whether it was the right instrument, or in other words, whether justice has been done to the public opinion. The Team hope that by scrutinizing the consultation process and reanalyzing the submissions more scientifically and thoroughly, we would be able to set the record straight as to what the true concerns of Hong Kong citizens are, and set a benchmark for future solicitation, collection and analyses of public opinion. The Team have a keen interest in seeing that justice is done to public opinion.

On a final note, the Team cannot emphasize enough that the focus of this project is not on scores keeping or finger pointing. Rather the Team are motivated by a sense of civic duty to take stock of this public consultation exercise on Article 23 legislation to develop a list of dos and don'ts for future public consultations.

METHODOLOGY

What the Government Did

The government published on 24 September 2002 a consultation document on "Proposals to Implement Article 23 of the Basic Law" and asked the people to send in their views and comments by 24 December 2002.

There was not a structured questionnaire because the government "[considered] it important to give free rein to the public to express their views" (See "Foreword", in *Compendium of Submissions on Consultation Document on "Proposals to Implement Article 23 of the Basic Law"*, vol. 1, page 1). Therefore, by design, the submissions received and listed in the voluminous Compendium vary considerably in both the format and the content. The hefty and imminent task was then to sift through the submissions, classify them and organize them so that they can be meaningfully considered in the policy formulation process.

The government did not explain how the 100,000+ submissions had been coded, but as judged from the figures published in the Compendium, the following 9 variables formed the obvious list:

✧ Serial number;

✧ Number of volume in the Compendium where the submission can be found;

✧ Where the submission came from: local or overseas;

✧ Type of submission: from organization (type 1; serial number starts with A), from individual (type 2; B), in the form of standard letter (type 3; C), or in the form of signature form (type 4; D);

✧ Name of organization or individual (for type 1 and 2 submissions only);

✧ Number of forms involved (for both standard letters and signature forms);

✧ Number of signatures involved (for signature forms only);

✧ Inclination toward legislation: support, oppose or uncertain; and

✧ Inclination toward a white bill as opposed to a blue bill: support a blue bill, request a white bill or preference not indicated.

What the Research Team Did

The Team admit that working with qualitative information is a tricky business. On the one hand

you would like to achieve maximum degree of comparability among the cases, but are afraid of leaving out a wealth of information on the other. If you try to be exhaustive, you are heavily strained by the resources in hand, primarily time. After you have settled on the variables to include, you need to consider the classification scheme under each variable. The categories need to represent meaningful and real differences, and they have to be mutually exclusive. Another fine line to tread is: if the categories are too broad, you lose information; but if the differences among categories are minute, the risk of inconsistency in coding escalates.

Striking the balance is not easy. That was why the Team spent a lot of time hovering over the coding scheme and the coding sheet, during which 2 rounds of pilot coding of sample submissions were performed. The coding scheme had been refined many times until the team finally settled on 45 variables (Please refer to Appendices 7 and 8 for more details), grouped under the following 25 items:

i. Coder: name of coder responsible for coding the particular submission;
ii. ser_let: letter part of the government assigned serial number that reflects the government's somewhat dubious typology of submissions (from organizations, individuals, standard forms, and signature forms);
iii. serial#: serial number of each submission;
iv. vol: number of volume in the Compendium where the submission can be found;
v. gc: government categorization of the submission's inclination toward legislation (support, oppose or uncertain);
vi. name: name of organization or individual;
vii. origin: local or overseas;
viii. date: date of submission;
ix. ind_v_gp: submission by individuals, groups, or a combination of both;
x. type: type of submission(unique letter, standard letter/form, or signature form);
xi. no_gps: number of groups involved;
xii. type of groups: community, business, education, political, religious, professional, news related group, and labour union;
xiii. no_inds: number of individuals involved;
xiv. no_forms: number of forms involved;
xv. no_sigs: number of signatures involved;
xvi. no_pages: reflect the sophistication level of the submission to a certain extent;
xvii. language;
xviii. stand1: support vs oppose legislation in principle;
xix. stand2: support vs oppose government's proposals;
xx. view1 to view14: 14 separate variables recording whether specific rationales were mentioned;
xxi. concern: whether specific concerns or worries about the proposals were mentioned;
xxii. 8 separate variables recording respondents' concerns or worries;
xxiii. w_bill: support or oppose introduction of a white bill or preference not indicated;
xxiv. check: whether the case warrants re-examination; and
xxv. study: whether the case warrants further in-depth study.

The expansion of 9 variables used by the government into 45 variables used by the Team

indicated that a lot more useful information can be extracted from these public submissions than what was reported in the Compendium. As shown in this report, they were crucial to the analysis and understanding of public opinion in its many facets.

In particular, it is conceivable, and indeed factual, that some people would support legislation in principle but find the specific proposals unacceptable. This could be one of the reasons why the government found it difficult to classify some of the submissions regarding their inclination toward legislation. Since the Team found that a considerable number of submissions were supportive in principle of legislation to implement Article 23 but opposed the content of the consultation document, the submissions were reclassified according to 'support', 'oppose' or 'uncertain' to the following two variables:

- ✧ Stand1: Stand on the legislation principle to implement Article 23; and

- ✧ Stand2: Stand on the legislation to implement Article 23 in accordance with the proposed legislation content in the consultation document.

For submissions that strongly supported the principle of legislation but did not mention any content of the consultation document, they were classified as supportive to the proposed legislation content in the consultation document. Similarly, submissions that strongly opposed the principle of legislation but did not mention any content of the consultation document were classified as opposed to the proposed legislation content in the consultation document. *Since the aim of the consultation as stated in the Compendium is to solicit views from the public on the government's proposals, public views on the* proposed legislation content *of the consultation document (Stand2) rather than the principle of legislation (Stand1) is more important.*

In addition to describing the people's stands toward the legislation proposals, it is equally important, if not more important, to unravel the rationale(s) behind these stands. During the 2 rounds of pilot coding, we have identified 14 most often cited rationales and include them in our coding scheme.

As a considerable number of the submissions discussed during the two rounds of pilot coding raised concerns about specific sections of the consultation document, the Team decided to collect information from all submissions in this respect as well. We not only asked whether concerns or worries were expressed, but also had those areas of concerns or worries identified.

DATA AND ANALYSES

The Compendium

In the Compendium, the government-classified "unique letters" were printed in volumes 2 to 18, of which the first 4 volumes were devoted to submissions from organizations. It was reported that there were a total of 1,127 organization submissions (Type 1, serial numbers go from A000001 to A001127), of which 1,067 were local submissions. Since one local organization explicitly requested anonymity, its submission was not included in the Compendium (there was no A000010), making 1,126 the total number of organization unique letters, local and overseas inclusive, under the government scheme.

Type 2 under the scheme meant "unique letters" from individuals. They constituted 13 volumes of the entire 19-volume Compendium (serial numbers from B000001 to B006436, with some skipped numbers in between). The government listed 6,396 submissions, of which 5,157 were local, and the rest from overseas. However, it was also reported that 11 overseas individuals requested anonymity and were thus not printed. It should be noted that, in the government tabulation of views expressed in the submissions, all the 12 omitted cases, from organizations or individuals, were included.

The remaining volume 19 of the Compendium was a parade of standard letters/forms (Type 3, C1 to C434) and signature forms (Type 4, D1 to D94). It must be emphatically stated that these represented only samples. The government identified 82,282 submissions as belonging to Type 3 (standard letters/forms), involving 87,658 signatures, and from which a sample of 434 submissions were selected and included in the Compendium (please check!). As for the signature forms, the Compendium listed 94 versions, but they were samples of a pool of 11,104 submissions, which involved 271,747 signatures (Appendix 10 presents an overview of the structure of the Compendium) .

Limitations of the Compendium and the Government's Classification Scheme

(1) Sample forms in volume 19:

It is entirely understandable and within reason for the government to print only samples of the standard letters and signature forms. After all, they were supposed to be identical.

Identical forms they might be, the arrangement posed great difficulties to the Team's effort to construct a dataset out of the Compendium and hampered our analyses nevertheless:

✧ Some standard forms allowed the senders of the submissions to choose from options provided to indicate whether they supported or were in opposition to the proposed legislation (e.g. C177, C179, C181, C339, C412). Can we assume the box(es) checked in the published sample were identical to the remaining standard forms which were not published?

✧ Other submissions had clear indication of whether the senders supported the legislation, but they could differ on the views toward the need to introduce a white bill (e.g. C167, C219, C313, C345, C356, C368, C372, C374-6, C385, C388);

✧ Some people made additional comments on the forms (e.g. C177, C179, C266, C342). Conceptually these comments should be coded too, but did the unlisted submissions share the same comments?

✧ Some people altered the content of standard forms (e.g. C222, C228, C362, C387) to present an opposite view to the original content. Again conceptually, we should adjust the coding of the submissions according to the perceived intent of the senders. But can we generalize to the other cases represented by this sample with altered content?

To be fair to the government, we have to admit that even if all the standard letters and signature forms were to be made available to the Team, the sheer volume of such would be beyond the Team's capability to handle. But this did impose tremendous problems on our analytical work. The first question is of course: to weight or not to weight. This will be further discussed in the Unit of Analysis section.

(2) Types of submission:

The government's categorization of 4 types of submissions was strange: from organization as opposed to submissions from individuals; and submissions in the form of standard letters/forms as opposed to signature forms.

Conceptually, the categorization carried 2 different dimensions: the first being organization versus individual submission, and the second being the format of the submission. Lumped together, four categories were created but they were not mutually exclusive; instead, they had a vast degree of overlapping. What do we do about standard letters from organizations and individuals? As judged   from the scheme, the first 2 categories only meant to include unique letters. Then what do you do when you would like to say something about all the organizations that sent in their submissions, whichever format they chose to use?

In the meantime, some possibilities were not covered. For example, there were unique letters that were endorsed by both organizations and individuals, how should they be classified? Also, while the government took great pain to list the number of signatures represented in the standard letters and signature forms, what about the multiple signatories to submissions classified under Type 1 or 2? They were not counted.

In our coding scheme, we separated the two dimensions into two variables and added in the variables of no_gps and no_inds. (Please see Appendix 8 for details.) Consequently we managed to obtain a lot more clear information about the submissions although the problem arising from the sample submissions has yet to be circumvented.

(3) Problematic classifications:

- ✧ Unique letters vs standard letters vs signature forms: Some letters displayed only slight non-substantial differences to others, should they be considered standard letters? Some standard forms bore additional comments from the senders, should they be viewed as unique letters? As to standard or unique letters endorsed by a large number of people or groups, should they be listed under signature forms?

- ✧ Local vs overseas: For signature forms in particular, there were often a mixture of local and overseas signatories. However, to maintain comparability with the government's analyses, and in cases which no clues were available in the submission to indicate whether it was local or otherwise, or cases that were difficult (if not impossible) to ascertain the number of local as opposed to overseas signatories, we had to follow the government's somewhat dubious path.

- ✧ Support vs oppose legislation: As discussed in the previous section, it was indeed factual that a certain person could support legislation in principle but find the proposals tabled unacceptable. The government's classification scheme did not allow for such situations, thus forcing some submissions to be classified as "stand toward legislation unidentifiable".

(4) Cancelling and salvaging submissions:

- ✧ The government stated in the Foreword of the Compendium that duplicate submissions were not to be counted. However, with not so much concerted effort on the part of our coders, we were able to identify some 18 duplicate submissions. In addition to 12 submissions that were not relevant to the subject matter of the consultation, we have cancelled a total of 30 cases. (Please see Appendix 11 for the list.)

- ✧ In the meantime, we were able to salvage some cases from "between the cracks". There were submissions with no serial numbers printed in the Compendium. The extreme case we found was that 4 independent submissions between B006041 and B006042 were missed. We managed to salvage 12 such cases (The list is also available in Appendix 11).

- ✧ 14 submissions were written in languages other than Chinese and English. They were all classified by the government as in opposition to the proposed legislation. However, since we were not able to conduct independent coding of such, we let these cases carry codes of missing values for most of the variables.

(5) Limitations acknowledged by the government:

- ✧ In the Foreword to the Compendium, the government acknowledged that "[there] may be some degree of duplication in submissions among the four categories since a person may make more than one submission through different channels. There may be duplication in submissions since it is difficult to verify whether the same person has made more than one submission by using different names." Indeed, in consultation

exercises like this one, there is no way to dodge this problem, if this should be called a problem at all, because, by design, consultations are not referenda. There is no requirement that everyone only speaks once. As a matter of fact, the government accepted multiple submissions from the same group or individual, provided that the content was different. Besides, it is difficult, if not impossible, to authenticate the identity of the submitters, with the exception of perhaps those who claimed to represent the whole nation or the universe.

✧ The government also described "some irregularities among the submissions obtained through the signature forms. These include duplication copies; submissions which contain different names obviously signed by the same person; identical signatures on different pages of the forms, etc…. Among the submissions under Type 2, there is a computer list containing 8102 names which may have been drawn from a certain database, such as a telephone list, to which the organization can access, and the list carries no signature." True, if we could rid these irregularities so that we could get a good head count, it would be nice. But then you would not choose the instrument of consultation exercise. Once again, these are built-in features of public consultation. If the government were that concerned about the numbers and the legitimacy of each head count, it should have conducted a referendum. By the way, it should be general knowledge that online petitions won't carry real signatures.

✧ The government correctly maintained that "[submissions] from the four categories do not constitute a random sample/representative sample. The results of the submissions therefore represent only the views of the individual/organization concerned. They cannot be generalized to represent the views of the whole population." This makes it all the more important that we do not only tally the expressed stands, but also find out the rationales behind them. Frankly the government's scheme of classification ignored much information in the submissions.

✧ Finally, it should be noted that some submitters have complained after the release of the Compendium about missing their submissions. The government has promised to collect them all and rectify the problem by publishing an addendum to the Compendium. However, it was only not long ago that the government loaded all the submissions onto the website dedicated to the legislation of Article 23 (www.basiclaw23.gov.hk). There was a section on "Submissions to Legco" as opposed to "Submissions to the Security Bureau". A cursory scan was able to identify some overlapping cases. And there was no description as to whether they constitute the entirety of the omitted cases. At any rate, because the new submissions were not available soon enough, they were not included in the Team's current study.

Unit of Analysis

Because of the problems associated with the sample forms, a dilemma faced the Team. Should the sample forms be weighted by the number of forms they supposedly represent?

If we do, the Team's data would comprise consistent unit of analysis, i.e. submission. But by

doing so, we have no choice but to accept the assumption that the sample forms are indeed representative which is apparently questionable.

But if not weighting them, the Team would not be able to compare our figures with those of the government's on its Type 3 and 4. Furthermore, our unit of analysis would not be consistent. Some "lucky" standard letters or forms would find their ways to our analyses, leaving many "unlucky" ones behind. One may of course argue that, with dubious assumption in place, the comparison, even if done, may not mean much.

Convinced that the 8,000+ submissions the Team have in hand contained a wealth of information that it would be such a loss if we gave up on them, and that the figures from the analyses were in any case deprived of generalizability, the Team decided to go ahead with our expedition to excavate the treasures hidden in all those pages of submissions. We took a middle road. At the descriptive level where we tried to spot general trends, we focused on the 8000+ cases in hand. When we needed to compare our findings more directly with what the government had reported, we added in the weighting.

Univariate Frequency Distributions (Reference: Table Set 1 in Appendix 12)

The following data analysis was based on the 8,021 submissions. Regardless of their origin, type of submission and number of persons/organizations represented, each submission was treated as one case. No weighting according to the number of forms or signatures was done.

In terms of simple frequency counts, detailed figures can be found in Table Set 1. Highlights of the frequency distributions are as follows:

✧ **Origin of submission:** The majority (82.8%) of the submissions were local.

✧ **Date of submission:** Most of the submissions were sent to or reached the government near the end of the consultation period. In particular, over 40% of the submissions were sent to or received by the government in the last nine days.

✧ **Individual vs. group submissions:** Individual submissions (83.6%) far outnumbered group submissions (15.1%). A limited number of submissions contained both individual signatures and organizational affiliations.

✧ **Type of organization:** Among those organizational submissions as classified by the government, more were from community groups (44.2%), labour unions (24.4%) and business organizations (13.3%). There were also submissions from education bodies, political groups, religious organizations, news organizations and professional groups.

✧ **Type of submission:** Complete unique letters constituted the bulk of the submissions (89.2%). Standard letters/forms consisted of about 10% and there were only 101 (1.3%) signature forms. However, the number of persons as represented by these two types was huge (356,501 altogether).

✧ **Number of pages in a submission:** Most of the submissions were of one (87.5%) to two

pages (7.6%) in length. This variable can be treated as a measurement of how serious or sophisticated a submission is. The longer submissions may be seen as more serious or sophisticated.

✧ **Language used in the submissions:** Most submissions (82.3%) were written in Chinese. Only 12 were written in languages other than Chinese and English. The rest were written in English.

✧ **Number of groups, individuals, forms, and signatures:** Among the 920 group submissions, 96.1% of them consisted of only one group. Among the 6,260 individual submissions, 92.9% of them consisted of only one individual. Among the 866 submitted forms, 40.1% consisted of only one form. Among the 101 signature submissions, several of them consisted of large numbers of signatures which included 151,883; 33,119; 19,199; and 13,144 signatures.

✧ **Reasons for supporting the proposed legislation content:** Among the 4,221 submissions that were in support of the proposed legislation content, the main reason cited was to "protect national security and interests" (67.6%). Other major reasons included "safeguard HK's prosperity and stability" (39.3%) and "required by the Basic Law" (29.6%).

✧ **Reasons for opposing the proposed legislation content:** Among the 3,570 submissions that were opposed to the proposed legislation content, the main reason cited by them for opposing the content was that "the proposed legislation would hurt Hong Kong's human rights and freedom" (66.4%). Two other prominent reasons given were: "hurt the 'One Country Two Systems' policy and import the Chinese model to Hong Kong" (28.5%) and "the [consultation] document lacks clarity and details" (24.3%).

✧ **Concerns about the proposed legislation content:** About 10% of the submissions expressed concerns about the specific "crimes" as listed in the government's consultation document. Among them, concerns were more concentrated on sedition (52.8% among the submissions which have expressed concern), police investigative power (47.5%), ties with foreign political organizations (43.1%), and theft of state secrets (42.6%).

✧ **Call for a white bill:** About 12.7% of the submissions explicitly asked for a white bill, while a slightly smaller proportion (8.5%) of submissions disagreed. The majority did not bring up this issue since it was not formally requested by the government.

Cross-tabulation Analyses (Reference: Table Set 2 in Appendix 12)

The stand towards legislation in principle (Stand1) and the stand towards government's proposed legislation content (Stand2) were cross-tabulated. The result shows that Stand1 and Stand2 were extremely highly correlated (Gamma = .993, p < .001). A total of 90.4% of the submissions were consistent in terms of the two stands. The reason is that many submissions were simple declaration of their support or disapproval of the government's proposed legislation content.

They themselves did not distinguish clearly the principle versus the content. In these cases the Team decided to code them (Stand1 and Stand2) the same. Hence they were almost identical in terms of data distribution. However, conceptually they should be separated and treated differently. There were 9.1% of the submissions in which they favored the principle of legislation (Stand1) but opposed the proposed legislation content (Stand2). *It would be too simplistic to assume that if one agrees to the principle, then automatically he/she would agree to the content.*

As shown in Table Set 2, we could cross-tabulate Stand1 and Stand2 and as a result nine categories were produced. The distributions of the submissions could be compared using different variables. It is clear that for individual submissions, there was a larger proportion of "Stand1 neutral, Stand2 oppose." Among the independently submitted letters, the proportions of "Stand1 favor, Stand2 oppose" and "Stand1 neutral, Stand2 oppose" were also larger. The same situation also appeared in the longer submissions (page number = 5 or above), for those submitted in the last days of the consultation period, and among the organizational submissions. The religious organizations were particularly different in terms of their views towards the legislation principle and the proposed legislation content. *To conclude, it is conceptually necessary to distinguish between Stand1 and Stand2 although they are very closely related for many submissions.*

For further analysis, only Stand2 was used to correlate with other relevant variables, including date, organization type, origin of submission, individual vs. group submission, number of pages, language used, expression of concerns, and call for a white bill. The reason is that the Team regard Stand2 as a more meaningful variable as the goal of the consultation was to understand the citizens' concrete views. Many citizens did not oppose the legislation in principle but they might have different views and concerns about government's proposed legislation content. Some noteworthy results were found when we cross-tabulated Stand2 with other variables:

♢ **Date of submission:** Later submissions tended to show opposing views towards the government's proposed legislation content (40% of the submissions from 1/12 to 15/12; 70% from 16/12-24/12).

♢ **Origin of submission:** Local submissions (63.2%) tended to favor the document. Almost all overseas submissions were against the proposed legislation content.

♢ **Group vs. individual submission:** Group submissions (78.0%) tended to favor the proposed legislation content. For individual submissions, the opinions split quite evenly.

♢ **Type of organization:** Community (95.2%), business (87.2%) and labor organizations (85.8%) tended to favor the proposed legislation content, while religious (90.9%) and political organizations (64.9%) tended to oppose.

♢ **Type of submission:** Standard letters or forms (86.0%) tended to favor the proposed legislation content. Among the other types of submissions (independent letters and signature forms) the proportions of those in favor and those in opposition were quite even.

⬥ **Number of pages:** Submissions with more pages (72% for 5+ pages) tended to oppose the proposed legislation content. In other words, the more serious or sophisticated submissions often had reservations about the government's proposed legislation content.

⬥ **Language used:** English submissions (81.7%) tended to oppose the document. It was even more so for those submissions written in both English and Chinese (91.7%). Among the submissions written primarily in Chinese, the proportion of supporting the government's proposed legislation content was larger (61.4%).

⬥ **Expression of concern:** Those who had concerns about the content tended to oppose the proposed legislation content (93.1%).

⬥ **Call for a white bill:** Those who called for a white bill also happened to oppose the proposed legislation content (85.0%). But among those in favor of the proposed legislation content, most (98.8%) of them said a white bill was not necessary.

Analysis of Submissions from Some Prominent Organizations (Reference: Table 3 in Appendix 12)

More than a thousand organizations submitted their views to the government concerning the proposed legislation content to enact Article 23. These organizations were from all walks of life and it would be interesting to know the stands of some of the more prominent ones. The stands of 57 selected organizations are shown in Table 3. The selection of these organizations was based on an organization's representativeness, importance, or social recognition.

From Table 3, it can be seen that for those organizations in support of the government's consultation document, they tended to do so both in terms of the principle and the proposed legislation content. For those in opposition to the content, they might have different stands towards the principle.

If the Team compared the classification done by the Team and by the government, there were a number of discrepancies. Many of those classified by the Team as "oppose" were originally classified by the government as "uncertain". Also, we used two dimensions (the legislation principle and the proposed legislation content) to do the classification while the government used only one dimension.

Comparing to the Government's Results (Reference: Tables 4A, 4B and 5 in Appendix 12)

To facilitate comparison with the results reported in the Compendium, the Team followed the government's classification scheme with regard to the origin and type of submissions: 1. organizations, 2. individual independent unique letters, 3. standard letters, 4. signature forms. Browsing over the Compendium, the Team observed that the first category (submissions from organizations) included both independent letters and standard letters, but not so for the second category.

The government reported in the Compendium counts and percentages on the inclinations expressed in the submissions regarding Article 23 legislation based on the following categorization:

A.   The content of the submission enables it to be identified as supportive of legislation to implement Article 23,

B.   The content of the submission enables it to be identified as opposed to introducing legislation to implement Article 23

C.   The content of the submission does not enable it to be identified as either supportive or opposed to legislation to implement Article 23

As reported in the earlier section, the Team found that some classifications of the government were problematic. For example, some submissions from organizations were classified as individual independent letters and some local submissions were classified as overseas submissions. As a result, the Team revised these classifications and this explained why some total counts did not agree with those reported in the Compendium.

Comparisons were made between the views reported in Compendium and those found by the Team, on the views regarding legislation in principle (Stand1) and views about the content of consultation document (Stand2) for both local and overseas submissions. Since the government's classification of inclinations expressed in the submissions were available only for submissions from organizations and individual independent letters, comparison would only be made between the government's findings and the Team's for these two types.

Generally we found that the percentages of support (category A in the Compendium) reported in the Compendium were close to the percentages of support to the proposed legislation content of the consultation document (Stand2). The percentages of support to the principle of legislation were even higher than that reported (category A) in the Compendium. *This is because a considerable number of submissions classified as having uncertain views (category C) by the government were in fact supportive to the principle of legislation even though many of them opposed to the content of the consultation document.*

On the other hand, the percentages of opposing to the principle of legislation (Stand1) or the proposed legislation content of the consultation document (Stand2) were higher than that reported (category B) in the Compendium (particularly so for Stand2). *This is because most of the remaining submissions that were classified as having uncertain views (category C) opposed, in fact, to the principle of legislation as well as the proposed legislation content of the consultation document leaving a much smaller number of submissions classified as having uncertain views than those in the Compendium.*

Amongst the 1,068 submissions classified to category C (uncertain view towards legislation) by the government (14.3% of the 7,512 submissions with government categories of A, B or C), the Team found that 377 (35.3%) of them actually opposed to both the principle of legislation as well as the proposed legislation content of the consultation document while only 100 (9.4%) of them supported both the principle of legislation as well as the proposed legislation content. Furthermore 796 submissions (74.5%) opposed the proposed legislation content. In fact, 419 submissions of them (39.2%) were uncertain or supportive to the principle of legislation but

opposed the proposed legislation content of the consultation document.

In conclusion, the Team found a higher percentage of opposing views to both the principle of legislation (Stand1) and the proposed legislation content *of the consultation document (Stand2) than that reported in the Compendium and had less uncertain views to both stands too. Hence our method of classification revealed the level of diversity of public opinion and enriched the content of the information.*
These results could be shown using "Stand1+2", a combination of Stand1 and Stand2 with the criteria that when both Stand1 and Stand2 are in favor, then for "Stand1+2" it is counted as in favor When both Stand1 and Stand2 are in opposition, then Stand1+2 would be counted as in opposition. Otherwise "Stand1+2" is counted as uncertain. In other words, Stand1+2 is a combined variable which may closely capture the government's thinking in its categorization. Hence this newly created variable "Stand1+2" should be in congruence with the variable "government's categorization."

In fact, as shown in Table 5, Stand1+2 was very close to the government's categorization in terms of distribution. Moreover, Stand1+2 is almost a mirror image of Stand1. *That is, the government's original categorization seems to have been done according to the submissions' stands towards the legislation principle rather than the content, especially in category B (opposing view), a considerable number of which were originally in the government-defined category C before the Team's reclassification.*

Looking at different views, the majority of the submissions or individuals as counted by their signatures were supportive to the principle of legislation as well as the proposed legislation content of the consultation document except for submissions in signature forms. The percentage of support was the highest among submissions from organizations (85%, Stand 2) but was the lowest among submissions by independent letters (57%, Stand 2). However the majority of individuals (as defined by their signatures in the signature forms) opposed to both the principle of legislation (72%) as well as the proposed legislation content of the consultation document (72.5%).

The Team doubts the necessity of distinguishing between standard letters and signature forms because we cannot see any real difference between them in terms of the nature and content of submissions. On combining the two types of submissions, individuals (as defined by their signatures in the signature forms) would dominate and the conclusion would be the same as that based on signatures in signature forms alone, namely the majority of individuals were opposed to both the principle of legislation (58%) as well as the proposed legislation content (63%).

For overseas submissions, the overwhelming majority was opposed to both the principle of legislation as well as the proposed legislation content.

Stands, Views and Areas of Concerns (Reference: Tables 6A and 6B in Appendix 12)

Further analyses were done to study the following:

✧ Reasons for supporting or opposing the proposed legislation content;

✧ Areas of concerns in the proposed legislation content in the consultation document; and

✧ Variables that affected the views on the proposed legislation content in the consultation document.

"Basic law designated", "[the policy of] One Country Two Systems actualized", "national security" and "help prosperity and stability of Hong Kong" were often expressed in those submissions that supported the proposed legislation content. On the other hand, *"hurt human right and freedom"* and *"[the consultation] document is unclear and lacks details"* were often the worries expressed in the submissions that opposed the proposed legislation content. About 10% of the local submissions stated the concerns of the proposed legislation content. Common areas of concerns included '*sedition*' and '*theft of state secrets*'.

As mentioned in the previous section, some variables were associated with people's view of supporting or opposing the proposed legislation content and they revealed some interesting characteristics for each type of submissions. Submissions that were written in English, consisting of more pages, sent during the later period of the consultation, expressed concerns for the proposed legislation content and requested for a white bill, had a larger proportion of opposing the proposed legislation content. Some submissions that expressed specific concerns to different sections of the proposed legislation content in the consultation document and made suggestions for improvement worth further qualitative analysis.

The majority of the overseas submissions opposed to both the principle of legislation as well as the proposed legislation content. Common reasons for objection included *"hurt human right and freedom"* and *"hurt [the policy of] Two Systems, impose the Chinese model to Hong Kong"*. About 15% of the overseas submissions stated concerns to the proposed legislation content in the consultation document. Some stated specific areas of concerns and they were *"tie with foreign political organization", "subversion"* and *"theft of state secrets"*.

Because of the overwhelming majority of the overseas submissions or individuals that opposed to both the principle of legislation and the content of consultation document, it is difficult to identify factors that associated with views to the proposed legislation content except that submissions sent during the earlier period of the consultation had a smaller proportion of opposing the content of the consultation document.

COMMENTS AND SUGGESTIONS ON
CONSULTATION EXERCISES

Major Problems with the Consultation Exercise

The major problem of the consultation exercise lies in the government's lack of appropriate method and manner in soliciting quality opinions. In particular, there are three shortfalls:

(1) *Lack of options* - the consultation document did not provide any options along detailed discussion points focused upon specific proposals. As a result, the public response could not focus on specific proposals in the document, and tended to be emotional and simplistic, therefore aggravating societal tension. Only about 10% or so talked about the detailed proposed legislation content in the consultation document. The "analysis" on the results also focused on a simple "yes" and "no" question, and neglected all the concerns of the citizens. A simple "yes" or "no" answer can be easily obtained by an opinion poll; conducting a 3-month territory-wide consultation just on one "yes" or "no" question is a waste of public resources.

(2) *Lack of fairness* - the government had not stated before the consultation started how the submissions would be counted. As shown from the results by the Team, different ways of counting will give different interpretations of public opinion. As it turned out, the government had an ambiguous definition of the position (the principle or the content?), and used questionable methods of counting (why were standard letters treated differently from signature forms?). This would hurt the government's credibility in all future consultation exercises.

(3) *Lack of methodological clarity* – the government failed to state the methodology used in the analysis of the submissions before and after the consultation period. The government did not report the coding guidelines of how the positions of the submission were judged. There was also no report of procedures in quality control of the analysis.

In sum, the methodology and manner of how the consultation was conducted contributed to the lack of sophistication and the polarization of opinions in most submissions.

Suggestions for Public Consultations in the Future

If specific policy-making relies on a simple "yes" or "no" answer from the public, the government can either conduct an opinion poll or launch a referendum, provided that it is constitutionally permitted.

Consultation in a form of public submissions should provide information other than a poll could collect as long as it is conducted properly. Through public submissions, the government is able to understand more about the intensive/organized/mobilized opinions in society. It also helps unravel detailed reasons behind certain stands and useful suggestions from the public. In order to

achieve these, the government must conduct the exercise in a professional and fair manner.

Specifically, we suggest the following points for future public consultations (like the coming political review):

(1)   Carefully define the specific areas for consultation with options provided;

(2)   Treat each submission fairly by stating out the methodology beforehand; and

(3)   Commission an independent party to collect and analyze the submissions.

As long as the government is committed to an open and fair consultation, public submissions can also become a convenient means for the government to manipulate public opinion during the decision-making process. *The government's present practice is deemed to be too rudimentary and biased that deserves public attention.*