



Hong Kong Democracy Council

(HKDC)

Opposition to the Basic Law Article 23 Legislation

February 28, 2024

Hong Kong Democracy Council (HKDC) is a U.S.-based nonpartisan, nonprofit organization founded in 2019 by Hong Kongers in the pro-democracy movement. HKDC aims to foster a coherent and collaborative diasporic community in order to enrich the global dialogue about Hong Kong's democratic development and human rights issues.

<https://hkdc.us>

We, the Hong Kong Democracy Council, are a U.S.-based organization with the mission to enrich the global dialogue about Hong Kong’s democratic development and human rights issues. On the 3rd anniversary of the mass arrests arising from the February 28 pro-democracy primaries, we register our formal opposition against Article 23 of the Basic Law. This statement serves as an official response to the SAR government’s for-show public consultation process.

1. Article 23 represses human rights in the name of “national security”

Weaponizing the judiciary system

Since the enactment of the National Security Law, which boasts an astounding conviction rate of 100%, the Hong Kong SAR government and pro-Beijing lawmakers have used “national security” as an official façade for a blatant attack on basic human rights and freedoms in Hong Kong.

As the rhetoric of protecting Hong Kong’s national security continues to be propagated by the SAR government, Hong Kong has – according to HKDC’s political prisoner database – witnessed a total of 1,796 political prisoners put behind bars as of February 22, 2024. The majority of these individuals were sentenced or prosecuted for merely exercising their freedom of expression, freedom of assembly, freedom of association, or their right to be elected.

The aforementioned freedoms and rights are respectively covered by Articles 19, 20, 22, and 25 of the International Covenant on Civil and Political Rights (ICCPR), a treaty quoted by the SAR government in its Article 23 public consultation document. Despite the SAR government’s verbal commitment – “[t]hese principles are equally applicable under the proposed Ordinance” — to the internationally recognized provisions, the reality is the exact opposite: the Article 23 legislation will be used to further erode Hong Kongers’ basic human rights, especially the ones listed above.

In courtrooms, Article 23 expands the legal grounds on which prosecutors and national security judges can claim acts constitute a threat to “national security.” A plethora of criminal charges will become available for prosecutors to select from to conveniently justify political prosecutions.

As “national security” is increasingly employed to explain political prosecutions, judges will have greater procedural justification to issue harsher penalties and longer sentences for political prisoners. We expect to observe an increase in sentencing time and further repression of fundamental human rights after Article 23 is implemented.

2. Article 23 poisons Hong Kong’s already ailing global reputation

No longer “Asia’s World City”

Since the enactment of the National Security Law, Hong Kong’s international reputation as “Asia’s World City” — a brand the SAR government still tries to trade on — has

plummeted irreversibly. Hong Kong, a once-popular international destination for tourists, businesses, and investors, is now defined by daily stories of political repression and a weaponized legal apparatus.

Currently, Hong Kong has active travel advisories from once-friendly foreign governments, including the United States, which advises its nationals to “exercise increased caution” when traveling to Hong Kong due to the “arbitrary enforcement of local laws.” Cases of foreign nationals arrested and charged under the unjust Hong Kong judicial system strongly discourage foreigners from viewing Hong Kong as an ideal destination.

In an attempt to salvage Hong Kong’s lost charm, the SAR government has spent billions of taxpayer dollars on campaigns such as *Hello, Hong Kong* (「你好, 香港」), *Night Vibes Hong Kong* (香港夜繽紛), and a series of “mega events” meant to promote the city. Nonetheless, these internationally-minded campaigns constantly run up against the insurmountable damage done to Hong Kong’s reputation by the SAR government’s excessively costly campaigns of political repression.

As the city loses its unique charm as a safe haven for free expression, international businesses and tourists have opted to relocate away from Hong Kong. No amount of mega events can revive a city lost to political oppression.

3. Article 23 mangles Hong Kong’s international competitiveness

Tightened control, empty offices

As Article 23 seeks to expand the list of offenses relating to “espionage,” “external forces,” and “theft of state secrets,” its implementation translates into risks of wrongful targeting and detentions for foreigners, whether they are in Hong Kong for work or for leisure.

When the safety of both Hong Kongers and foreign persons – including sought-after international talent – cannot be guaranteed in Hong Kong, businesses will naturally seek a more stable location to ensure that their company can continue to operate in a reliable business environment. The continued relocation of headquarters of major international corporations and businesses attests to Hong Kong’s lost competitiveness.

In a city where “national security” can be easily employed to demand data handovers, businesses also worry about informational security. The recent example of Latham & Watkins – a leading international law firm that has operated in Hong Kong for 25 years – cutting its Hong Kong office off from access to international databases speaks volumes about the plans businesses are making in response to the tightened control of Hong Kong.

Hong Kong, the international financial center that was once known for its free-flowing environment and lucrative market, will see more and more office spaces vacated and bid farewell to more and more talent as the control tightens.

4. Article 23 incites hatred and instigates conflicts within the Hong Kong community *Pitting Hong Kongers against Hong Kongers*

Legal mechanisms such as the National Security Law and Article 23 are employed by the SAR government as a political tool to deepen conflicts within the Hong Kong community. Ironically, this reality stands in direct contradiction with the values John Lee claims to strive for in his 2023 policy address, titled “A Vibrant Economy for a Caring Community.”

Ever since the introduction of “national security” as a rhetorical tool by the SAR government, Hong Kong authorities have been active in utilizing public statements and media outlets to rile up hatred against pro-democracy Hong Kongers. Public attacks adopting dehumanizing terms intended to shame and humiliate are often used to incite sensationalized responses from pro-Beijing Hong Kongers and Chinese nationals against Hong Kongers who do not identify with either label.

With the introduction of Article 23, new offenses related to treason and insurrection will offer the SAR government further institutional ability and an array of new narratives to incite hatred and conflicts within Hong Kong. These sentiments, especially when encouraged by a malicious government and supported by a captive legal system, could take decades or even generations to undo.

The politicized usage of treason and national security-related offenses have largely discouraged Hong Kong civilians – both domestically and internationally – from honestly sharing their feedback not only on political matters but also on social and economic affairs. For instance, the public refrained from actively and openly discussing Hong Kong’s plastic bag levy scheme for fear of arrest.

The enactment of Article 23 will also sow mass anxiety. The creation of new national security offenses – particularly those related to “misprision of treason” and “unlawful disclosure of information” – are likely to have a severe chilling effect on individual expression in Hong Kong. Any simple communication could easily be misconstrued by prosecutors as suspicious under the new national security offenses. The growth of Hong Kong is likely to be heavily hindered by a collective sense of anxiety.

The Cultural Revolution-esque social atmosphere — from reporting and being reported on, from surveilling and being surveilled on — created by the National Security Law will be exacerbated under the implementation of Article 23.

We, the Hong Kong Democracy Council, firmly oppose the enactment of Article 23. We demand that the Hong Kong SAR government immediately halt the plan to enact Article 23, that it immediately revoke the implementation of the National Security Law, and most importantly, that it immediately release all political prisoners in Hong Kong.