

## Hong Kong feels chill from China



KIN CHEUNG/REUTERS

Protesters march against a proposed anti-subversion law in Hong Kong yesterday. The territory has unveiled sweeping new national security laws -- at Beijing's behest -- that Hong Kong human rights groups fear could pose the most serious threat to civil liberties since this former British colony returned to Chinese rule in 1997.

MARTIN REGG COHN (ASIA BUREAU)

HONG KONG--It's no longer business as usual in this profit-oriented, apolitical place.

Bankers are teaming up with trade unionists. Human rights groups are making common cause with chambers of commerce. The Catholic Church is onside with the Falun Dafa. And cautious diplomats are joining journalists in raising the alarm.

The source of this sudden unity amongst so many fractious forces? There is a chill wind blowing in from the mainland. At Beijing's behest, the local government is proposing sweeping national security laws to jail anyone accused of trying to "intimidate" the People's Republic of China.

A 62-page document brimming with legalese has ignited the biggest political storm here since the British colonialists bowed out and handed sovereignty back to the Chinese Communists. At stake is the concept of "one country, two systems" that was a cornerstone of the 1997 handover, guaranteeing Hong Kong's heritage of common law for 50 years.

"It is a bridge for extending the mainland system to Hong Kong," warns independent legislator Audrey Eu, former head of Hong Kong's bar association.

The new Consultation Document reads like a game plan for future crackdowns if Hong Kong falls afoul of Chinese political sensitivities.

Indeed, the chapter headings say it all: Treason. Sedition. Secession. Subversion. Theft of state secrets. Banned foreign organizations.

Five years after the Queen took her leave, Big Brother has emerged from the motherland to cast a dark shadow on this port city.

The proposals amount to "the last nail in the coffin" of Hong Kong's political freedoms, charges Martin Lee, a veteran legislator who founded the Democratic Party.

Local groups could be banned if they affiliate with any Chinese entity that Beijing deems a threat to national security. The Falun Dafa, also known as Falun Gong and already [banned] by the mainland, might one day be targeted in Hong Kong, activists fear.

Pro-democracy politicians are also worried they could be prosecuted for forging links with foreign groups, if China certifies them as a threat to national security. The spectre of such a crackdown is "the most evil part of the government's proposal," says Lee.

"If that becomes the law, China can just, with one certificate, get rid of any organization that it doesn't like," he says in an interview.

Lee and other legal experts say it's not only high-profile dissidents who have reason to feel vulnerable, because ordinary people could also be affected in unexpected ways. Police would gain new powers to conduct searches in private homes without a warrant in certain situations.

Even Canadians holding Hong Kong residency permits could be arrested upon their return if found to be fomenting anti-China activities abroad.

Why, after enjoying five years of political harmony, is Hong Kong suddenly battering down the hatches?

In part, this is the unfinished business of the handover -- the leftover legal drafting that British and Chinese negotiators couldn't resolve in the run-up to 1997. Article 23 of the Basic Law -- its mini-constitution -- stipulates Hong Kong must at some future point "enact laws on its own" to safeguard state security.

The provision was insisted on by China after Hong Kong erupted in protests against the 1989 Tiananmen massacre. If implemented, the new legal arsenal would prevent Hong Kong from ever again becoming a source of unrest against the mainland.

Critics concede Hong Kong is obligated to implement the Basic Law, but say local officials have gone too far. Instead of merely updating or pruning antiquated laws, Hong Kong is bolstering its arsenal.

Yet the spectre of national security laws has galvanized Hong Kong's normally subdued population, and shined the spotlight on the territory's democratic deficit.

Many are angry Hong Kong failed to draft the legislation "on its own," as stipulated in the Basic Law, opting to consult closely with Beijing to harmonize their approach. The resulting convergence could dilute the independence of Hong Kong's judiciary, subjecting it to Beijing's penchant for dictatorship by decree.

Critics also complain Hong Kong's haste to enact repressive laws contrasts with its reluctance to embrace the Basic Law's call for democratization. The debate was thrown into sharp relief when Hong Kong's combative secretary for security, Regina Ip, dismissed democracy as an unreliable and overrated system that brought Hitler to power in Nazi Germany.

"Hitler came to power by democratic election, and he killed 7 million Jews," Ip lectured university students recently, overlooking the Nazi abuses and intimidation tactics that allowed him to become Chancellor.

Ip followed her outburst with a stout defence of Communist China's human rights record, claiming Beijing could be trusted.

"The mainland has assured us that no one gets prosecuted in China for political crimes," she told incredulous legislative councillors, ignoring the thousands of political prisoners and jailed journalists on the mainland.

Few were reassured when mainland Vice-Premier Qian Qichen snapped that anyone opposing the national security laws had "devils in their hearts." Lawyers quickly countered that the devil is in the details.

"The government realizes that if they give you more details, you'll see more devil," says the Democracy Party's Lee.

Ip insists her proposals are little different from the sedition and treason laws still on the books in countries like Canada, Britain and Australia. But that argument has drawn stiff protests from legal scholars and political analysts who accuse the government of quoting selectively from foreign statutes.

More to the point, Hong Kong and China aren't democratic countries, so references to the West can be highly misleading, says Mark Daly, a Canadian human rights lawyer who practices in Hong Kong.

"It's a false comparison," says Daly, who sits on the constitutional affairs committee of the Law Society of Hong Kong and has published a critique of the proposals. "There are no checks and balances here."

Unlike Canadians, voters here can't turf out their government if politicians trample on civil liberties or otherwise abuse power. Daly also points out that Canada's sedition laws have fallen into disuse; by contrast, Hong Kong is toughening up its laws to deter incitement against the government and imposing harsher penalties than are found on the mainland.

"At the end of the day, we don't have a genuine democracy here," notes University of Hong Kong law professor Simon Young, who previously worked for the attorney general's ministry in Ontario.

Young also questions the government's selective references to Canadian law to bolster its case, such as the claim that Canada's Supreme Court ruled against any unilateral right to secession. In fact, Canadians consider secession a political issue, not something to be criminalized in the courts and separatist sympathizers thrown in jail. By contrast, China is adamantly opposed to secession by Tibet or Taiwan, often excoriating the Dalai Lama and Taiwanese nationalists as "splittists."

"They completely omitted the qualifications mentioned in that (Canadian) court decision" Young says.

Another controversial proposal is to prosecute journalists for theft if they refuse to reveal their sources after "unauthorized disclosure of protected information." The plan has prompted warnings that any restrictions on the free flow of information could spark an exodus of media from Hong Kong, and discourage the big banks and other businesses from keeping offices here.

Canada's Consulate General issued a public statement yesterday with a pointed warning that the legislation had to conform with international human rights treaties.

"We will be looking closely at the exact wording of the proposed legislation, particularly ... the possible impact of such provisions on freedom of expression and association (and) the appropriateness of enhanced police powers," the Canadian statement said, echoing similar comments from the British and American governments.

The public has also picked up on the warning signs, with a new poll yesterday showing heightened concern about freedom of the press and government intrusions. A strong majority want the government to provide more details in a public debate, rather than rush it through the legislative council.

"They kicked the sleeping dog," says pollster Michael DeGolyer. "Society has become polarized, deeply affected by this issue ... What we have is a very serious, I think, increase in worry."

But the government shows no signs of backing down. Pro-Beijing legislators defeated a bid by the democratic camp to condemn the proposals this week, signaling the government will enjoy an easy ride from its allies when it submits the proposals to a final vote next year.