

A battle won in the war of laws

A magistrate's ruling yesterday to drop charges against the *Ming Pao Daily News* was not only a victory for freedom of the press in Hong Kong, but a remarkable step forward in the history of the territory's human rights. Not only was the case against three senior editorial staff and the newspaper dismissed, but section 30 of the Prevention of Bribery Ordinance was also repealed as a result on the grounds that it was a contravention of the Bill of Rights in the area of public free access to information.

The defence counsel, Charles Ching, argued that *Ming Pao Daily News* was justified in publishing an Independent Commission Against Corruption inquiry into an allegation that property developers formed a cartel to force down land auction prices. Magistrate Hugh Sinclair was satisfied that the law was a "blanket restriction", disproportionate to the social need to

combat corruption. Both views are shared by those who have been advocating press freedom.

Section 30 of the Prevention of Bribery Ordinance could have threatened Hong Kong's press freedom as the future role of the ICAC remains controversially uncertain. It is a section that reinforces the ICAC's secrecy. If the ICAC is involved in an action outside the scope of its legal authority, the prevention of its disclosure by the press will contribute to injustice.

There have been fears throughout the community that the ICAC could become a secret police agency capable of abusing its powers after the 1997 takeover. Of course, if the community had full confidence in Deng Xiaoping's pledges of "one country, two systems" and "Hong Kong people to rule Hong Kong", if the People's Republic of China was becoming a

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more tolerant and free state, such anxieties would be excessive.

However, with less than 900 days before the handover, China has shown no signs of changing its totalitarian nature and human rights conditions have deteriorated lamentably.

Under China's rigid policy of

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over-emphasising the concept of "sovereignty" over Hong Kong and reasserting its so-called Asian values where the state ruthlessly dominates people's will, the metamorphosis of the ICAC from a neutral and impartial anti-corruption agency into a machine of repression is not only a possibility, but

increasingly becoming a gloomy reality.

As a part of this unpleasant prospect, it remains an urgent task for the people of Hong Kong to reassess the role of the ICAC. The dilemma, which perhaps has already emerged, is agonising. Bertrand de Speville, the ICAC's Commissioner, last month predicted an increase in corruption before 1997, which has to be contained effectively by a strong and efficient ICAC. If the ICAC becomes an enemy of freedom rather than the guardian of a corruption-free society, the widening of its powers will help it to be a cynical accomplice of a future dictatorship. It may be a difficult choice between a corrupt but relatively free society, or a corrupt but repressive one.

The Government will then face the urgent task of making the ICAC more accountable to the

public while ensuring a reasonable degree of secrecy essential for a properly functioning anti-corruption machine.

The battle was won by *Ming Pao Daily News*, but the war goes on for the media industry and the people of Hong Kong. Section 30 is not the only draconian law in the statute books. Many others need to be scrapped or reviewed in order to bring them in line with the Bill of Rights. There are those hindering freedom of expression, including the broadcasting laws that allow the Chief Secretary to apply for court injunction to ban programmes that might result in the breakdown in law and order. There is the Official Secrets Act, extended from Britain, which fails to define clearly the areas of information that cannot be published. The Film Censorship Ordinance allows censorship by the Government on its judgment that a film

could seriously damage relations with other territories, which can easily be translated into damaging the image of the "motherland" and Chinese people. Never mind other outdated laws covering public order, treason and sedition, which are still placed in the armoury ready for use for the repression of human rights by a less benevolent government. The odyssey of safeguarding the human rights of the community is a long one within a limited time.

The Government must take the initiative in examining these laws, rather than waiting for a similar case to go before the court before another draconian law can be struck off the statute book. On the part of *Ming Pao Daily News*, the three senior staff members should be congratulated for their courage and belief, with which they have contributed to making our society a more open one.

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