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A better Basic Law will come to those who earn it

The Legislative Council, rushing in where angels fear to tread, is going to debate the Basic Law. This is an exercise in futility.

The sentiment that it is better to have a bad Basic Law than no Basic Law is being widely touted. We have a chorus of people who say however bad the Basic Law is, it is a good thing the blueprint is now finally there, bringing an end to the negotiations. A friendly attitude towards the Chinese is now top priority, they say.

No doubt similar sentiments will be expressed in the Legco debate.

The Basic Law is fundamentally flawed because the freedom of the individual is not enshrined in the document and any final adjudication of the law within Hong Kong without interference from the Chinese National People's Congress (NPC) is impossible.

There are no safeguards against central government interference, and especially not against the declaration of martial law within the future Special Administrative Region (SAR).

There is considerable discrimination against Chinese holding foreign passports, and the provisions for a properly elected

Walter Sulke argues against the sentiment that it is better to have a bad Basic Law than no Basic Law at all.

democratic government and governor border on the ridiculous.

Amendments are required specifically to Article 17 which now takes away the right of final adjudication of the law from the SAR. It is absolutely necessary that only the supreme court in Hong Kong can be allowed to rescind a law passed by the legislature of the SAR.

If the standing committee of the NPC is required to adjudicate then an NPC Basic Law committee can only be acceptable if it is composed solely of the chief justice and other senior judges of the SAR, and the Basic Law must be amended accordingly.

Article 18, as now drafted, allows the central government to declare martial law within the SAR. This article must be altered to contain a clause which states that in an emergency, other than an attack from outside the People's Republic of China, a suspension of the Basic Law can only

people simply because they hold an additional passport. We would be expelling talent we need very badly.

Beijing must be made to realise that "one country, two systems" means more than just a bland reference to capitalism and communism.

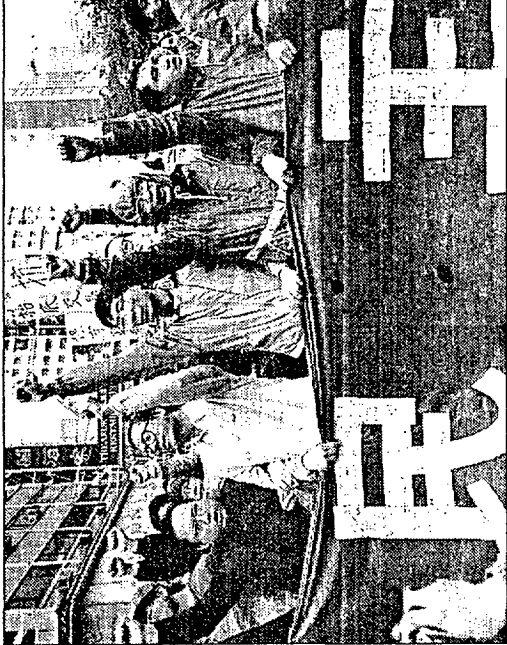
Then there is Article 23. This is the article which contains the words "subversion" and "sedition".

The definition of "subversion" of the Chinese government has varied considerably in the last 40 years, and often those accused of subversion then seized power and put their accusers in jail for subversion!

A law against traitors is necessary and acceptable. A law which refers simply to subversion and sedition without proper definitions is not acceptable.

This article also refers to the theft of state secrets.

In the last 40 years the size of the food ration in China has been considered as a state secret. If the central government intends to impose their state secrets on the SAR then it might just as well close shop because no capitalist system can possibly operate with only half the information it needs.



Liberal leaders voice their disaffection for the Basic Law.

Also, it is a habit of many governments to try and hide their own mistakes under the guise of state secrets. If these then leak the civil servants concerned may well be guilty of an offence.

State secrets are used regularly by totalitarian governments to subvert the law, the truth and the people. In the Basic Law state secrets should be closely defined so that they cannot be used to subvert the people's freedom.

Then there is the issue of democracy. There is a consensus in Hong Kong that more democracy is needed. There is also a consensus that democracy should come slowly.

However, it is absolutely essential that this consensus is supported. We really must, therefore, alter the Basic Law to allow for the so-called 4-4-2 model and must make arrangements for the eventual democratic election of the governor of the future SAR.

There is no doubt the present Basic Law is flawed and must be altered. But that is where the major problem lies. The only really important attribute the Basic Law must have is that after 1997 it should not be altered.

If, after it has been passed by the NPC, we alter it, future newspapers are always will-

ing to publish what the politicians have to say without formalising the matter.

The bland motion which will no doubt be passed, is a bad political mistake because it assumes that the present conditions in China - the economic malaise and the problems in the army - can all be handled by the present government.

I am sure they can't and within the next 18 months there will be different people in charge in Beijing.

The worst thing we can do is to officially say that the Basic Law is lousy but it is the best we have so let's accept it. What we should be saying is that we must have changes and the sooner the better.

Another problem which worries me is the wish of the Basic Law Committee and the Basic Law Advisory Committee to perpetuate themselves.

There is talk about a committee to be appointed by the Chinese, perhaps 30-strong, to oversee the Basic Law "convergence" plus an advisory committee of 250 members to do the same thing.

Obviously a lot of the men and women on the Basic Law Committee, which will now be dissolved, want to keep their hand in for the SAR. This is very dangerous.

A committee of 30 could very easily become an alternative to the Executive Council. It would interfere with the Hong Kong Government long before 1997. A committee of 250 would garner too much influence and presumably slide into the electoral college which the British and Chinese governments have agreed to establish.

Let me say to all those tempted to join these committees: you are taking an awful chance working with this Chinese government.

Any influence that you might want to have after 1997 would disappear down the drain as soon as there is a change of government in Beijing.

You wouldn't be doing Hong Kong any favours by joining such a committee.