

THE LINE HARDENS

Tougher stance on civil rights threatens freedom of expression in Hong Kong

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Acknowledgements

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Introduction

Anniversaries do not always prove poignant, or positive. This, the 10th joint report of the Hong Kong Journalists Association (HKJA) and ARTICLE 19 on the state of freedom of expression in Hong Kong, coincides with the fifth anniversary of the handover of the territory from the United Kingdom to the People's Republic of China in 1997, as well as the start of a second five-year term for the Beijing-appointed chief executive, Tung Chee-hwa. The last five years have proved worrisome ones for freedom of expression—not worrisome in the sense that there has been a definitive and unambiguous erosion of this important right, but worrisome nonetheless. The coming five years may yet prove more challenging.

Better under the British?

The HKJA and ARTICLE 19 take no pleasure in noting that freedom of expression found a more positive environment, and more credible official expressions of support, under the final years of British colonial rule than it does now. Despite the florid language of reunification—and the notion propagated officially that returning to China must, by definition, be better for human rights in Hong Kong—freedom of expression and other associated rights to association and assembly have come under pressure from the SAR authorities, and to some extent from the central authorities in Beijing, even arguably from within the media in Hong Kong itself. Without doubt, the environment for vibrant and healthy free expression, and a free press, in Hong Kong has become hazy, and more ambiguous, since 1997.

We are led to this conclusion by an accretion of issues and attitudes—some minor, others significant. We have highlighted in our last two reports two issues—Taiwan and the Falun Gong movement—where sensitivities to the central government, real and perceived, have led the SAR authorities into dangerous waters on freedom of expression. This past year signs of a growing intolerance towards dissent continue—among them the banning of selected protests, the handcuffing of journalists at a demonstration, and the barring of a China activist from entering Hong Kong.

The HKJA and ARTICLE 19 note that at the head of the government, in Mr Tung, there is wavering and ambiguity—not steadfastness and clarity—on the question of freedom of expression. The chief executive speaks of his ideal vision of the media, for example, as “promot[ing] solidarity and people’s trust in government”; there is little talk of the important role the media has as a watchdog of government.

None of this yet amounts to a sustained attack on freedom of expression (and associated rights), or the press. That would be an exaggeration. Yet there are dangerous tendencies afoot. The government is permitting an erosion of freedom of expression and associated rights by failing to take seriously their protection.

Prospective Article 23 laws are a real threat

The coming few years are likely to witness a far greater controversy—and threat. It appears that the government will soon move on the enactment of legislation *inter alia* on subversion as stipulated under Article 23 of the Basic Law. Both SAR and mainland officials have given indications of late that a draft law is imminent. The impact of such legislation on freedom of expression could be profound.

The Hong Kong government has solemn obligations—under the International Covenant on Civil and Political Rights, the Basic Law and the Hong Kong Bill of Rights—to safeguard and foster freedom of expression. Yet it has been conspicuously unresponsive to calls to meet these obligations, whether from the HKJA and ARTICLE 19, the UN Human Rights Committee, or from other concerned groups and citizens. As Hong Kong enters the next five years under Chinese rule, the HKJA and ARTICLE 19 strongly urge the administration to revisit its attitude, and to work to consolidate all civil rights—paying particular attention to the right to freedom of expression, which in many ways underpins the exercise of other rights. A good start would be a pledge to refrain from taking action over Basic Law Article 23 legislation—or, at the very least, to guarantee that international human rights standards in the form of the Johannesburg Principles be written into such laws.

Mak Yin-ting, Chairperson, Hong Kong Journalists Association
Andrew Puddephatt, Executive Director, ARTICLE 19

Conclusions and recommendations

The past year under review—the final year of chief executive Tung Chee-hwa’s first term of office—has thrown up several danger signs, which if left unaddressed could have a detrimental effect on freedom of expression and the ability of the media to act as a viable watchdog of the government. Indeed, Mr Tung and his government have taken an increasingly tough line on the exercise of freedom of expression and the associated rights of assembly and association where these challenge sensitive security-related and public order priorities. This trend is likely to continue into Mr Tung’s second term, which starts on July 1st 2002.

The HKJA has pinpointed the following issues and events:

For anti-subversion, read “anti-dissent”

1. Signals from both Beijing and Hong Kong that the government of the Special Administrative Region (SAR) may soon enact anti-subversion laws under Article 23 of the Basic Law. This legislation would prohibit treason, sedition, subversion, secession and the theft of state secrets. The HKJA fears that it could have a serious impact on freedom of expression, including press freedom, in particular if it is aimed at banning the advocacy of views inimical to the Chinese leadership;

1. The hasty introduction of a law aimed at countering terrorist activities;

1. Signs of growing intolerance on the part of the government and law enforcement agents towards dissent. This has taken several forms: tough action against the Falun Gong spiritual movement and right-of-abode claimants; the banning of several protests from the area in front of the government headquarters; the high-handed arrest of three protesters for staging an unauthorised assembly (under a contentious public order law); and the extraordinary handcuffing of two journalists during an operation against right-of-abode claimants;

1. The decision to bar a US-based China activist, Harry Wu, from entering Hong Kong.

Greater attention to protection of civil rights needed

While these incidents together do not yet amount to sufficient evidence of a deliberate assault on freedom of expression and associated rights (though some harbour suspicions of such), they are symptomatic of a wider problem—the tendency of the authorities to permit the erosion of these rights, and the failure to take seriously their protection, as laid down in the International Covenant on Civil and Political Rights, the Basic Law and the Hong Kong Bill of Rights Ordinance. The SAR government clearly has an obligation, under these important covenants and laws, to be more vigilant in its approach towards human rights. It should take robust steps to prevent the abuse of civil rights, rather than allowing them—whether deliberately or by default—to be gradually eroded.

The HKJA and ARTICLE 19 call on the Hong Kong government to implement such an approach through the following action programme:

1. Make an unequivocal statement that it will take steps to bring the laws and practise of Hong Kong regarding freedom of expression fully into line with its international human rights obligations, including the International Covenant on Civil and Political Rights.

Article 23: respect international standards

2. Respect international and comparative standards relating to national security and freedom of expression in the development of any laws under Article 23 of the Basic Law. In particular, the concepts of subversion and secession should be deleted from the Basic Law or, if this is not possible, the authorities must ensure that any laws in this area conform to Principle 6 of the *Johannesburg Principles on National Security, Freedom of Expression and Access to Information*.

3. Ensure that viable safeguards are in place in the United Nations (Anti-Terrorism Measures) Bill, which is aimed at preventing terrorist activities. At present the language of the draft legislation is excessively broad and open to abuse, and may endanger civil rights, including freedom of expression.

4. Amend other security-related laws restricting freedom of expression and information to bring them into line with the International Covenant on Civil and Political Rights. These include the Crimes, Official Secrets, Emergency Regulations and Public Order ordinances (the latter as it affects the right of individuals to express dissent in demonstrations and rallies).

5. Amend the National Flag and National Emblem and Regional Flag and Regional Emblem ordinances to ensure they can no longer be used to intimidate non-violent protesters simply for desecration of the Chinese or Hong Kong flag or emblem.

6. Strengthen the editorial independence of the publicly owned broadcaster, Radio Television Hong Kong (RTHK), by enacting legislation outlining the station's autonomy and editorial independence in clear and unambiguous terms. Further, refrain from taking any action that might be perceived as threatening to the station's existing status as an independent public broadcaster.

7. Enact freedom of information legislation giving individuals an enforceable legal right to access information held by public authorities. Such legislation should be based on the principles of maximum disclosure, limited and narrowly drawn exemptions, and an effective appeal mechanism.

Setting up a statutory press council would be the wrong move

8. Refrain from supporting any action by the Hong Kong Press Council to turn itself into a statutory body, or any proposal by the Law Reform Commission, once it concludes its deliberations, to set up a statutory Press Council for the Protection of Privacy. Such moves could have a debilitating effect on press freedom, and should be opposed by all media workers.

9. Make a clear and unequivocal statement that it will do nothing to encourage self-censorship in the media, in particular over issues that may be sensitive to the mainland Chinese authorities, including reports on labour unrest, dissident activities and developments affecting regions such as Taiwan, Tibet and Xinjiang.

10. Urge the Chinese government to lift all restrictions on reporting on the mainland by Hong Kong-based journalists, whether they be local or foreign media workers. Further, the SAR government should give all possible assistance to any Hong Kong-based journalists who face problems on the mainland, whether it be harassment or detention.

Further, the HKJA and ARTICLE 19 make the following recommendations to the media community:

1. Media proprietors and senior editors should take measures to combat self-censorship within their own media organisations, and should support members of their staff who legitimately criticise the Chinese and Hong Kong governments.

2. Media proprietors and senior editors should come out strongly against any move by the Hong Kong Press Council to turn itself into a statutory council. They should instead focus on improving ethical standards within their own publications.

SECTION 1

A more assertive second term

Worrying signs of a more autocratic administration style

On July 1st 2002, Tung Chee-hwa starts his second term as Hong Kong's chief executive. Observers expect Mr Tung to become more assertive. He is setting up a political system which will allow him a greater say in policy-making, through the appointment of so-called ministers who will be in charge of specific policy issues. There is also growing evidence that he and at least some of his senior officials are taking a tougher approach towards dissent, through the denial of entry to Hong Kong of prominent dissidents and a more intolerant approach towards political protests.

Further, there are growing signs that the government will soon take action to enact (*inter alia*) anti-subversion laws under Article 23 of the Basic Law. This section of Hong Kong's constitution states that the Hong Kong Special Administrative Region "shall enact laws on its own to prohibit any act of treason, secession, sedition, subversion against the Central People's Government (in Beijing), or theft of state secrets...." Such a move will have a profound effect on freedom of expression.

Don't mention Taiwan independence...

While freedom of expression broadly has remained intact since the July 1997 handover to the People's Republic of China, pressures have been growing on the media to curtail coverage of issues deemed sensitive to the central government in Beijing. These include, most notably, the reporting of views of those advocating independence for Taiwan. In January 2000, a deputy director of Beijing's liaison office in Hong Kong, Wang Fengchao, called on journalists not to report such views. This followed the airing by a cable TV station of an interview with the outspoken vice-president of Taiwan, Annette Lu.

...or Tibet, or Falun Gong

Other areas of sensitivity include reporting on the Falun Gong spiritual movement (which is banned in the People's Republic, yet legal in Hong Kong); separatist activities in Tibet and Xinjiang; dissident actions; the inner workings of the Chinese Communist Party and state leadership; and comments on the performance of mainland leaders.

While the chief executive has not indicated any timetable for the enactment of anti-subversion laws, pressure has been growing for action to be taken. In February 2002, the vice-chairman of the Legislative Affairs Commission of the Standing Committee of the National People's Congress, Qiao Xiaoyang, said the issue should be dealt with as soon as possible, although he added that this was up to Hong Kong. Mr Qiao was speaking in Beijing shortly before meeting Hong Kong's secretary for justice, Elsie Leung.

Ms Leung also revealed, during the same visit to Beijing, that she had discussed the issue with the chairman of the National People's Congress, Li Peng. According to one report, this was the first time that mainland and Hong Kong leaders had discussed the issue at such a high level.

Anti-subversion legislation seems likely

Such discussions have added further fuel to speculation that the government will soon move to legislate. The chairman of the Bar Association, Alan Leong, said: "If you look at all the circumstantial evidence you conclude they are going ahead with it."

The government's security bureau, which is responsible for the matter, would only say what it has been repeating before—that the administration was still researching the laws and law reform proposals of other jurisdictions, as well as relevant human rights principles. The bureau said there was still no "firm timetable" for legislation.

However, human rights groups, legislators and members of the HKJA who met the secretary for security, Regina Ip, in May 2002 came away from the discussion fearing that a subversion law would be imposed soon. The director of Hong Kong Human Rights Monitor, Law Yuk-kai, said the meeting had raised more concerns than it had given assurances.

The convenor of the Executive Council, Leung Chun-ying, added to worries that some sort of action was imminent when he told Hong Kong Cable TV in June 2002 that the time was right for the government to introduce anti-subversion laws. Mr Leung said: "Many countries and societies have enacted laws in this respect. It is weird if there is no legislation [in Hong Kong]."

Article 23 legislation should conform to

In August 2001, the Hong Kong Human Rights Monitor issued a lengthy report on Basic Law Article 23 offences. It argued that the best way forward would be for the government to do

Johannesburg Principles

nothing. It went on to say that if the government did act on Article 23, then it should enact only laws prohibiting treason and sedition, which should conform to international standards, as well as the *Johannesburg Principles on National Security, Freedom of Expression and Access to Information*¹. The group said that laws on subversion and secession would not be necessary, “as other laws more than adequately cover such behaviour, including the crime of treason.” It also notes that no offences of subversion or secession exist under common law.

The group called on the government to “tread very carefully” on Basic Law Article 23 legislation. In particular, it called on the administration to ask the Law Reform Commission to study whether making sedition a crime is really necessary, and to determine how to balance human rights and security in provisions on treason and sedition.

The American consul-general, Michael Klosson, also issued a warning on Article 23 offences in a farewell speech to the American Chamber of Commerce in Hong Kong in June 2002. Mr Klosson said the SAR’s international image would be at stake if such legislation was perceived to limit politically sensitive activities. Mr Klosson also called for wide public consultation on any proposals, which, he said, should be consistent with international human rights standards.

The HKJA has taken a similar stance on Article 23 issues since the promulgation of the Basic Law in 1990. It remains seriously concerned about the effects anti-subversion laws might have on freedom of expression, in particular if specific provisions outlawed the advocacy of so-called subversive and secessionist views.

The HKJA would therefore call on the government, if it is to proceed with legislation in these sensitive areas, to base its proposals on international human rights principles, specifically the *Johannesburg Principles*.

THE THREAT OF ANTI-TERROR LAWS

In April 2002, the government introduced an anti-terrorist law into the Legislative Council. The administration first briefed legislative councillors about the move in November 2001, explaining that the law was needed to comply with a United Nations Security Council resolution and anti-money laundering measures adopted in the wake of the terror attacks on Washington and New York in September 2001.

Anti-terrorism laws could be abused

However, comments by the secretary for security, Regina Ip, that terror groups named by Beijing could be included in a Hong Kong law, raised concern among human rights advocates that groups such as the Hong Kong Alliance in Support of the Patriotic Democratic Movement in China and the Falun Gong spiritual movement could be outlawed.

Thirteen human rights groups, including Human Rights Monitor, expressed concern in a statement that “unless the issue is approached with great caution, it could open the floodgate for an unwarranted power increase of the SAR authorities.” They also expressed concern that the definition of the terms “terrorism” and “terrorist organisation” could be too broad. The groups also questioned whether the new laws might increase the power of the government to monitor groups and individuals, and expand the powers of the police to arrest and detain individuals.

The United Nations (Anti-Terrorism Measures) Bill stipulates that a terrorist act constitutes the use or threat of action in a number of areas (for example, involving serious violence against a person or serious damage to property) where the action is designed to influence the government or intimidate a section of the public, and is made for the purpose of advancing a political, religious or ideological cause.

The bill empowers the chief executive to name in the government gazette terrorists, terrorist associates and terrorist property, and the secretary for security to freeze funds linked to terrorists. Those affected may appeal to the Court of First Instance, and the listing of names and property will automatically lapse after two years.

In tabling the bill in the Legislative Council, Mrs Ip said the government had taken a minimalist approach to the problem of terrorism, striking a balance, as she put it, between protecting personal freedoms and human rights and ensuring public safety. She also noted that the government

¹ The Johannesburg Principles were adopted in October 1995 by a group of experts in international law, national security and human rights, convened by ARTICLE 19.

had not followed the anti-terrorism laws of many major jurisdictions “in seeking to extensively increase enforcement and investigative powers such as interception of communications or detention.”

Big chill for human rights

However, human rights groups and pro-democracy legislators feared that the draft legislation may have a serious impact on various freedoms, including freedom of expression. The legal representative in the Legislative Council, Margaret Ng, argued that the bill was far from minimalist. She said it gave the chief executive and the secretary for security “draconian powers”. The Law Society’s constitutional affairs committee expressed concern that the drafting was too broad, and that the law could exert a “chilling effect” on existing rights.

The HKJA was further concerned about provisions which could lead to the prosecution of journalists who refused to give up information relating to possible terrorists or their activities. It felt there were insufficient safeguards in the bill to protect journalists in the event that they were asked to reveal names of sources or information given in confidence.

Human rights groups called on the government to withdraw the bill for further consultation. The government rejected the call, arguing that failure to enact the law would damage Hong Kong’s international image.

Some concessions, though

However, officials did relent in some areas. The secretary for security announced several proposed amendments. Under the most significant, the chief executive would have to seek approval from the Court of First Instance to designate an individual or a group as terrorist, unless the United Nations Security Council had already made a similar designation. Aggrieved individuals would have the right to take their case to the Court of Appeal and to seek compensation if their assets were seized. Mrs Ip also announced a relaxation of the provisions on the disclosure of information about potential terrorist funds or assets.

Most legislators are expected to back the bill when it goes to a vote, probably in July 2002.

ANOTHER CHINA CONTROVERSY AT MAJOR DAILY

Following Willy out the door

In April 2002, controversy erupted over the sacking of the *South China Morning Post*’s Beijing bureau chief, Jasper Becker. This was not the first sacking by Hong Kong’s major English-language newspaper of a journalist critical of China. And as with previous sackings, conflicting opinions were expressed over whether the sacking was a sign of self-censorship and timidity in China coverage, or whether it was prompted by personality clashes.

The SCMP alleged that Mr Becker was sacked for insubordination, adding that the journalist was unable to work under and report to the China editor, Wang Xiangwei, formerly an employee of the official Beijing-based newspaper, the *China Daily*.

However, Mr Becker said the newspaper appeared to be steering clear of controversial mainland stories. He said of material originating in Beijing: “Our copy was being changed or watered down.” He also alleged: “They’re trying to make the coverage more pro-China and they’re just trying to find ways to avoid offending people and trying to tone the coverage down a lot.”

Accusations of vetoes on sensitive coverage

In particular, the award-winning journalist and author of several books on China accused the newspaper of denying him permission to travel to Tibet, despite receiving rare approval from the regional Tibetan authorities. Mr Becker also alleged that the SCMP did not allow him to cover labour disputes in north-eastern China and that the publication had adopted a cautious approach towards coverage of the Falun Gong.

However, Mr Becker said the key event was the transfer of supervision of the Beijing bureau from the Chinese Foreign Ministry to the Hong Kong and Macau Affairs Office under the State Council. This was achieved after the mainland authorities announced in late September 2001 that Hong Kong media organisations could set up Hong Kong bureaux in China². Previously, the SCMP was considered to be a foreign bureau—hence its line of supervision to the Foreign Ministry, which handles foreign journalists.

The journalist alleged that the Hong Kong and Macau Affairs Office had expressed unhappiness over the newspaper’s China coverage, and that it had argued that since the SCMP was no longer formally a foreign publication it should employ only ethnic Chinese journalists in its bureaux in

² Apart from the SCMP, permission has also been given to TVB, Phoenix TV and Hong Kong Cable to set up bureaux in Beijing.

mainland China. (Regulations on the setting up of Hong Kong bureaux in Beijing state that employees must be Hong Kong permanent residents, although not necessarily ethnic Chinese. Those allowed to work in the capital have to renew their permits every six months.)

The SCMP's editor, Thomas Abraham, denied that the newspaper was pulling its punches on China coverage. Mr Abraham asserted: "Any suggestion that our reporters have been told not to cover certain issues is quite simply not true. The suggestion that our news coverage is somehow directed by the authorities in Beijing is a complete distortion of reality."

Further, Mr Abraham denied in an internal memo to SCMP staff that Mr Becker was not permitted to cover "the recent labour unrest" or Falun Gong protests. He also denied that funds had been "deliberately withheld from the Beijing bureau to prevent its smooth operation," as alleged by Mr Becker. Mr Abraham concluded: "It is easy for anyone dismissed from the *Post* to cite self-censorship as the reason, and to crusade as a champion for press freedom. The reasons for Jasper Becker's dismissal are more mundane, and lie in his own attitudes."

A depressing pattern of sackings

Nevertheless, a former SCMP editor, Jonathan Fenby, argued in an article in *The Asian Wall Street Journal* that Mr Becker's sacking "is the latest in a trio of decisions which indicate that the *Post*'s current management believes that caution must be exercised on coverage of topics considered sensitive by the Chinese and Hong Kong authorities." He cited the other decisions as the removal of Willy Wo-lap Lam from his position as China editor in late 2000 (see 2001 Annual Report) and the sacking of editorial pages editor Danny Gittings in October 2001, during a cost-cutting exercise³.

Politically correct style book?

Mr Fenby reiterated his own conflict with management during his time at the SCMP (1995-99). He wrote of "repeated conflict with the owners, the Kerry Media group headed by Robert Kuok, resisting instructions that I fire journalists they disliked, ban the use of the word 'massacre' to describe the 1989 Tiananmen Square repression, stop calling Hong Kong figures 'pro-Beijing' and drop the pro-democracy passionaria, Emily Lau, as a columnist." Mr Fenby went on: "So I was not in the least surprised when my contract was not renewed in the summer of 1999."

As with similar cases, it is difficult to take a definitive stance on Mr Becker's sacking. It is probable that both management sensitivity about how Beijing views the newspaper and personality conflicts had a bearing on the decision to terminate the services of a highly respected journalist.

Suffice it to quote from an editorial in *The Asian Wall Street Journal* on May 2nd 2002: "The fear of Beijing-style government censorship coming to Hong Kong after the 1997 handover may have proved ill-founded, but the mainland Chinese culture of self-censorship has successfully infiltrated the territory's media. It's becoming clear that the trend of newspaper owners in Hong Kong putting business interests above editorial integrity has the power to undermine one of the pillars of Hong Kong's past success, the free flow of information."

DETENTION OF JOURNALISTS WORKING ON THE MAINLAND

In May 2002, the HKJA learned of several incidents of harassment of journalists working in mainland China for one of the leading Chinese-language newspapers, *Apple Daily*. The publication is routinely denied permission to cover news on the mainland because of its critical stance towards the Chinese leadership. However, its journalists still manage to file stories originating there—albeit without permission.

Local journalists detained on mainland

According to information obtained from sources, four journalists were detained by Ministry of State Security officers for periods ranging from a few hours to several days. (The ministry is responsible for handling espionage and counter-espionage matters.) The four journalists were later released without any further action being taken against them.

The newspaper's deputy chief editor, Cheng Ming-yan, confirmed that the incidents took place. He said similar incidents occurred all the time, because of the problem of having to obtain permission to report on the mainland—although other publications have not admitted such incidents in public.

³ Mr Gittings made a low-key exit from the SCMP, although he has documented at least one case in which he came into conflict with management. This concerned an attempt in January 2001 to force him not to serialise extracts from *The Tiananmen Papers*—a book outlining the power struggles within the Chinese hierarchy at the time of the 1989 pro-democracy protests. Beijing denounced the book. Mr Gittings wrote: "It was only after strenuous protests that this ban on publication was reversed."

Mr Cheng said three of the four journalists worked mainly in Shenzhen. He said all four were picked up around the same time, but in different locations. Mr Cheng noted that two of them were detained for about four days—which, he said, was unusually long. He added that they were treated well during their detention in a hostel run by the Ministry of State Security. The fourth journalist was detained while he was visiting Shenzhen for pleasure. He was released after just a few hours.

Mr Cheng said questioning focused on how the journalists obtained their stories. He said the main issue appeared to be to stress to the journalists that they were reporting without permission. The impression was not given that any particular story or incident had led to the detentions.

Such incidents highlight the difficulties of Hong Kong journalists reporting in mainland China under the current regulatory system. Under regulations announced in the aftermath of the 1989 suppression of the pro-democracy movement in China, journalists must seek prior permission from Beijing's liaison office in Hong Kong to travel to the mainland for reporting purposes. The HKJA maintains that the restrictions should be scrapped.

CHINA ACTIVIST BARRED FROM HONG KONG

An unlikely security threat to Hong Kong

Another freedom of expression controversy hit Hong Kong in April 2002, with the decision by immigration authorities to bar US-based China activist Harry Wu from entering the SAR, ostensibly for security reasons. Mr Wu flew into Hong Kong to meet Frank Lu, who runs the Hong Kong-based Information Centre for Human Rights and Democracy; Mr Lu fled to Hong Kong from the mainland, and is regarded by China as a dissident voice. The two activists had planned to finalise arrangements for the setting up in Hong Kong of a branch of Mr Wu's China Information Centre.

The US consulate said the entry ban "could have the effect of limiting freedom of association and restricting the free flow of ideas." Paul Harris, a spokesman for Human Rights Monitor, expressed similar sentiments. He said: "We're shocked and very concerned. The suggestion that Mr Wu is a threat to Hong Kong is completely ridiculous. We regard this as an erosion of our freedom of association."

Government sources later indicated that Mr Wu had been barred because they feared he would seek to turn Hong Kong into a base for subversion aimed at the mainland. They linked this to the planned meeting with Mr Lu. They also indicated that Mr Wu could be issued another visa if the purpose of his visit was different. However, in June 2002 Mr Wu was barred once again from visiting Hong Kong. The Chinese embassy in Washington denied him a visa—even though it had previously indicated to him that he would be granted entry to the SAR. Mr Wu had been invited to speak at a seminar organised by the Foreign Correspondents Club.

Entry bans another worrying pattern of official behaviour

Mr Wu's denial of entry to Hong Kong was not the only example of such tactics during the year under review. In October 2001, five activists from Taiwan were denied entry to attend an anti-globalisation seminar organised by the Solidarity and Resistance Against Globalisation Alliance. The event was timed to coincide with a conference hosted by the World Economic Forum. The five were among about 20 overseas guests invited to the anti-globalisation seminar. The alliance reported, however, that entry was granted to three other Taiwanese passport holders, as well as activists from Japan, Thailand, New Zealand, South Korea and the Philippines.

GOVERNMENT GETS TOUGH ON PROTESTERS

The handling of demonstrations took a stark turn for the worse in April and May 2002. Tough action was taken against right-of-abode claimants and Falun Gong adherents; protesters were barred—the government says temporarily—from outside the central government offices and Beijing's liaison office in Western; three protesters were arrested for organising an unauthorised assembly—even though many such protests had been held before; and unacceptable restraints were placed on media coverage in at least one high-profile police operation.

Harassment of journalists covering protests

This latter restriction became evident on April 25th 2002, when two journalists were led away in handcuffs during an operation to remove right-of-abode protesters from a park next to the Legislative Council building in Central. The police moved against the pair—Cable TV cameraman Butt Kwong-lai and *Ming Pao* reporter Chan Chi-wai—after they allegedly refused to move to an area specially designated for journalists. Two photographers were also pushed to

the ground in the incident.

The handcuffed journalists were freed shortly afterwards. The officer in charge of the operation claimed they had been acting emotionally. He said they were freed after they had calmed down. The pair deny that they had become emotional.

Two of the journalists made formal complaints to the police. The HKJA and the Press Photographers' Association condemned the action. Four media organisations, including the HKJA, later met the commissioner of police, Tsang Yam-pui, who promised better liaison with the media to facilitate coverage of police operations. He also dismissed the confrontation with journalists as an "individual incident".

The four media organisations agreed to submit a report to the police, focussing on the handcuffing incident and the use of designated zones to control media access to police operations.

The HKJA in particular expressed concern about the increasing use of designated zones, saying the area set up in the park was far from where the police operation was taking place. Further, it noted that the police blocked the view of journalists and photographers by setting up a human barricade of officers around the operations area.

The HKJA concluded: "We view the general use of designated zones to be unacceptable except in special circumstances such as the visit of high-risk dignitaries or when an event takes place inside a closed area, such as the airport. The police should not have total discretion to decide when a designated zone is justifiable. Transparent rules governing the use of designated zones should be created after consultation with the media."

Other manifestations of a tougher line on security included the arrest of three activists accused of organising an unauthorised assembly. Two of them—April Fifth Action Group member Leung Kwok-hung and student leader Christopher Fung—were arrested at their homes during early-morning raids. The third—student Chris Lo—later gave himself up to the police⁴.

*Demonstrators
come up against the
Public Order
Ordinance*

The trio were charged under the Public Order Ordinance, which has come in for considerable criticism since changes were made to it in July 1997. Indeed, the latest arrests prompted the Bar Association to call for a review of its most stringent provisions, which include a stipulation that protest organisers must obtain a so-called "letter of no objection" from the police if more than 30 demonstrators take part in the action. Lawyers for the students said the legality of the ordinance could be challenged in this case, which could go all the way to the Court of Final Appeal.

Another sign of a more intolerant approach towards protests was the decision to bar demonstrations from the area in front of the central government offices—although that policy appears to have been relaxed. Several groups were barred from this area, including the Hong Kong Alliance in Support of the Patriotic Democratic Movement in China, which wanted to march there in late May. The alliance was told that "(t)he decision was made on security grounds based on threat assessments of events involving right-of-abode claimants." A core group member, legislator Lee Cheuk-yan, said: "It is very obvious the police are tightening control on protesters." An appeal board later overturned the decision to bar the Hong Kong Alliance from the area outside the government headquarters, and the march went ahead as originally planned—without incident.

The government, however, is denying assertions that it is tightening its policies towards demonstrators. The secretary for security, Regina Ip, denied that political motivations were behind the arrest of the three activists, or that the move was linked to the visit of top Chinese leaders during fifth-anniversary celebrations in July 2002.

*Freedom of
assembly under
threat*

The HKJA considers recent developments to be of considerable concern. They place significant limits on free assembly, and thereby freedom of expression. The HKJA does not see any pressing social or political need for the government to take tougher action against demonstrators; Hong Kong, after all, is not sliding into anarchy. Indeed, the government should be considering a move in the other direction, in the form of a liberalisation of the Public Order Ordinance, by reverting to pre-handover legal provisions whereby protesters merely had to notify the police of planned demonstrations and rallies.

⁴ Demonstrators took to the streets a few days later to protest against the arrest of the trio. They were filmed by police officers during their unauthorised march. The filming of protesters has intensified since the 1997 handover, leading to charges that officers were trying to intimidate demonstrators, in particular by filming at close range. The commissioner of police, Tsang Yam-pui, admitted that the footage could be used as evidence against protesters.

Court cases relating to demonstrations during the Fortune Global Forum in May 2001 also highlighted tensions between the media and security services—though the news was not all bad. The Chinese president, Jiang Zemin, attended this event. Security was therefore extremely tight. Three pro-democracy activists were arrested during scuffles at the start of a planned march to the conference venue. Police also seized a symbolic coffin and a vehicle which the protesters planned to use during the march.

Yet in September, the trio were acquitted of obstruction after the magistrate ruled that their arrest and the removal of their van had been illegal. Magistrate Anthony Yuen said he believed that the real reason behind the forcible removal was that the police regarded the van as a disruptive vehicle, which appeared at a sensitive place at a sensitive moment. He also said that the behaviour of the three defendants did not amount to obstructing an officer in the execution of his duty because the police had acted improperly. The secretary for security, Regina Ip, later denied that the removal of the van was “politically motivated”.

In another case, seven pro-democracy activists from the Social Democratic Forum were convicted for chaining themselves to the flagpole outside the Hong Kong Convention and Exhibition Centre, shortly before the Fortune Global Forum started. The police cut them free before arresting them. In December 2001, they were found guilty of obstruction and fined between HK\$500 and HK\$1,000. One of the protesters—Chan Kwok-leung—noted with irony that they had been convicted on international human rights day. He also said: “We were only making a peaceful protest to express our opinion about the chief executive election. The prosecution agreed that we did not use any violence.”

HEAVY-HANDEDNESS IN MACAU

As we noted above, journalists faced heavy-handed treatment in Hong Kong during the year under review. They also came in for rough treatment in Macau. In February 2002, a group of about 20 journalists travelled to Macau with several members of the April Fifth Action Group, who wanted to hold protests in the enclave against a visit by the chairman of China’s National People’s Congress, Li Peng.

Alleged assault on news cameraman

Macau immigration authorities denied entry to the April Fifth Action Group activists. Police officers then tried to prevent the journalists from filming and photographing what was happening inside the Macau arrivals hall. A television cameraman for Television Broadcasts (TVB), Chu Wai-kit, alleged that he was beaten by the police and that his camera was smashed. A reporter for the same station, Wong Chun-mei, said she was dragged away when she intervened, and a reporter for the *South China Morning Post*, Cheung Chi-fai, was pushed into an office, where he was questioned for 45 minutes. He said his press cuttings were taken and examined, but later returned.

The HKJA called for an independent investigation into the incident after Macau security officials insisted that the allegations made by journalists were untrue. However, police said the complaint of assault had been passed on to government prosecutors and that an internal disciplinary committee had been set up to investigate the incident. These moves fall far short of the call for an independent inquiry. At press time, the authorities in Macau said that the investigation was continuing, and that they would make public its conclusions once it was completed.

FALUN GONG FACES MARGINALISATION

Falun Gong continues to face harassment

The Falun Gong spiritual movement, which is banned on the mainland but legal in Hong Kong, also came under renewed pressure in the year under review. The HKJA’s 2001 annual report documented the campaign of vilification by Hong Kong officials against the group in the wake of Chinese pressure to rein in its activities. While this campaign has eased off in the year under review, and there has been no further public discussion of the need to enact anti-cult laws to deal with Falun Gong, the group has remained under pressure whenever it has taken to the streets to express its views.

In March 2002, 16 Falun Gong members were arrested after police tried to move them from an area outside Beijing’s liaison office in Western. Scuffles broke out, resulting in minor injuries to nine demonstrators and seven police officers. Group members had been protesting against Bei-

jing's crackdown on mainland practitioners, following the unprecedented broadcasting of Falun Gong programming on a cable channel in the north-eastern city of Changchun.

All 16 were charged with public obstruction. Nine were also charged with obstructing the police, and three with assault. This was the first time any practitioners had been charged in Hong Kong. The trial was under way at press time.

The pressure group, Human Rights Monitor, condemned the police action to arrest and prosecute the protesters. It noted that the action took place shortly after 53 Hong Kong delegates to the Chinese People's Political Consultative Conference issued a joint statement calling on the SAR government to curb Falun Gong activities in Hong Kong. The Monitor's director, Law Yuk-kai said: "We are sorry to learn that there are certain delegates from Hong Kong who are eager to undermine Hong Kong's fundamental freedoms of expression, association and belief."

This was not the first brush with the law by Falun Gong practitioners. In August 2001, 10 Falun Gong practitioners were detained for causing an obstruction, also outside Beijing's liaison office. They were released after the police gave them a verbal warning. The police admitted that the group had been detained after liaison office representatives had made two complaints about the group's activities. Then, in November 2001, Falun Gong followers clashed with government environmental hygiene officials over the placing of a wooden banner outside the liaison office.

Given the action against Falun Gong over the past year, it was perhaps no surprise that the police barred the group's members from holding a protest outside the liaison office on April 25th 2002. This was the third anniversary of a mass protest action in Beijing, in which practitioners surrounded the Zhongnanhai leadership compound. A Hong Kong practitioner, Lu Jie, claimed: "It is not the police who are stopping us, but the pressure from Beijing that made them do it." A police spokesman would only say there had been no untoward incidents. The Falun Gong practitioners later held their protest in a central part of Hong Kong.

Falun Gong also complained that the administration was preventing it from using government venues for its activities. This followed the high-profile staging of an event in a major government venue in January 2001. This in turn prompted the government campaign of vilification against the group.

*Indirect attack:
Falun Gong unable
to rent venues*

Falun Gong claimed that 36 applications to rent government-run venues had been rejected because the administration was trying to censor it. The ombudsman's office later rejected the allegations, saying the applications had been handled according to existing practices. Falun Gong said it would submit a second complaint to the ombudsman, after yet another application to rent a government venue had been turned down—even though the group had already established that the venue was available for hire.

RTHK FACES RENEWED PRESSURE OVER ITS INDEPENDENCE

The government broadcaster, Radio Television Hong Kong (RTHK), has come under renewed pressure in the period under review. This pressure has come from a traditional source, pro-Beijing publications and individuals intent on seeing the station become a government propaganda mouthpiece; and from a new source, calls for the station to become more cost-conscious during difficult economic times. In addition, the outspoken former director of broadcasting, Cheung Man-ye, has expressed fears that the station will face increased pressure to act as a government mouthpiece once a new ministerial system is set up in July 2002.

Under the new system, the chief executive, Tung Chee-hwa, will appoint non-civil servants to 14 major policy-making positions. At the moment, most of these positions are taken by civil servants brought up in the British colonial tradition. Most of the new ministers are likely to be civil servants, but they will have to resign from the service and serve on contract terms, with the possibility that they could be sacked if they fail to perform to the standards set by Mr Tung. Critics have said the new system will concentrate power in Mr Tung's hands.

*"Accountability"
system may
pressure RTHK into
toeing government
line*

The pro-Beijing *Mirror* magazine said in April 2002 that RTHK should become a "governing tool" because "a strong government needs to have strong public opinion support." Replying to this article, Ms Cheung said she agreed that RTHK would face growing pressure under the ministerial system. She noted that senior government officials had "tried to snap up all the airtime" and that RTHK had been criticised for not giving officials enough airtime. Ms Cheung

reiterated that RTHK should not become a government mouthpiece.

The serving director of broadcasting, Chu Pui-hing, insisted that RTHK's editorial independence would not be compromised under the new ministerial system. He acknowledged that RTHK had an obligation to serve the public, and even if there were changes at the station, they would be aimed at strengthening editorial independence. The chief government spokesman, Stephen Lam, also commented on the issue, saying: "We respect the editorial independence of all media organisations in Hong Kong... It is up to them how to deal with the news professionally according to the highest professional standards."

Corporatisation one way forward for RTHK

Ms Cheung also raised once more the question of whether RTHK should be corporatised. Under this scenario, the station would be separated from the government. It would be run by a government-appointed board of governors, albeit with substantial government funding. Ms Cheung said that corporatisation remained the best way forward for RTHK in the long run. Ms Cheung pushed hard for corporatisation during her 13-year term as director of broadcasting, but the government proposal was blocked by China, which was fearful of losing control over a potential propaganda organ.

Mr Chu has also discussed the possibility of corporatisation in the year under review. He said that given the government's budget deficit problems, it was an appropriate time to study whether corporatisation would improve the station's cost-effectiveness. He also noted that his colleagues were convinced that corporatisation would further strengthen editorial independence and allow greater operational flexibility. However, the administration said in a statement in April 2002 that "the Government has no specific plan to privatise or corporatise RTHK at this stage." It remains to be seen whether the minister responsible for RTHK from July 2002 will adopt a similar approach.

Sense of humour failure

In October 2002, RTHK's satirical Chinese-language television programme, *Headliner*, came under renewed pressure. The pro-Beijing newspaper *Ta Kung Pao* attacked it over a segment comparing Tung Chee-hwa's government with the former Taleban administration in Afghanistan. The context of the programme was Mr Tung's annual policy address and his bid to serve a second term as the SAR's chief executive.

The chief executive said the programme was "in bad taste". A pro-Beijing politician, Yeung Yiu-chung, said RTHK, as a public broadcaster funded by taxpayers, "should not poke fun at [Mr Tung's] policy address, the budget or other important government reports because it would be misleading to the public." Another politician, National People's Congress delegate Ma Lik, called on the government to spell out RTHK's role.

The official response from the government was simple: It had no plans to review RTHK's role. It also pointed out that the station had all along enjoyed editorial independence. But the acting head of the Information Technology and Broadcasting Bureau, Eva Cheng, evaded questions in the Legislative Council over whether Mr Tung had exerted pressure on RTHK by making his "bad taste" comment.

One week after the dispute arose, the chief secretary for administration, Donald Tsang, also weighed in, saying that there was "no room for compromise" over press freedom. He also expressed confidence in RTHK's handling of the case.

The Broadcasting Authority received 28 complaints about the programme, although it considered only four were within its jurisdiction. In December, it issued an "advice" to RTHK. This is the lowest form of censure given to a television or radio station. The authority said *Headliner*, which it considered to be a current affairs programme, had failed to strike a fair balance between different viewpoints on Mr Tung's policy address.

RTHK expressed disappointment over the verdict. The station disagreed with the authority's classification of *Headliner* as a current affairs programme, and suggested that a new category should be included in broadcasting codes of practice to take into account the special nature of satirical programmes. RTHK also noted that viewers would not confuse a satirical programme with serious commentary in regular current affairs programmes. The HKJA also expressed regret about the Broadcasting Authority judgement, calling for a review of the way satirical programmes are judged.

The controversy left a feeling among RTHK staff that the station was under siege and should be careful about its handling of potentially sensitive material. The host who presented the satirical

item, Lam Chiu-wing, reported that he enjoyed less freedom after the row over his programme because his scripts had to be vetted before he went on air⁵.

Further pressure came to bear on RTHK in the form of an auditor's report, which highlighted inefficiencies in the way the station produced TV programmes. The auditor found that staff handling educational programmes produced only half the output of their counterparts in the public affairs TV section. The report pointed to other areas of concern, including the payment of overtime allowances.

Will cost-cutting affect editorial independence?

These cost pressures come at a difficult economic time, with many outside the administration calling on individual government departments to rein in spending and to take some of the pain others in the community are suffering. Whether these pressures will have any impact on RTHK's editorial independence and its programme standards remains to be seen. Outside consultants hired by RTHK have suggested that the station needs to become more cost-conscious. And indeed, the government cut RTHK's annual budget from a revised estimate of HK\$521 million for the 2001/02 financial year to HK\$515 million in 2002/03.

ANOTHER CONVICTION FOR FLAG DESECRATION

April Fifth Action Group activist Leung Kwok-hung is no stranger to the law banning the desecration of the Chinese and Hong Kong flags and emblems. He was convicted for a second time in March 2002 and fined HK\$3,000, along with another group member, Koo Sze-yiu. The pair were charged in connection with a demonstration in Central in May 2001. The court heard that two petals of Hong Kong's bauhinia emblem had been blacked out.

Mr Leung argued that everyone should be entitled to exercise freedom of expression, and that the law under which he was prosecuted, the Regional Flag and Regional Emblem Ordinance, should be scrapped.

However, the magistrate did not see the case in this light. In addition to fining the pair, he ordered Mr Leung to pay the HK\$3,000 good-behaviour bond imposed on him in February 2001 for his first offence. The pair's supporters paid their fines, which meant they did not have to serve jail terms. Mr Leung said at the time of his first conviction that he would not appeal against the sentence because he did not believe he could win.

A previous desecration case—the first since the relevant laws were enacted in July 1997—went all the way to the Court of Final Appeal. The Court of Appeal found in favour of two activists accused of desecrating the Chinese flag, arguing that the laws were an unnecessary restriction on freedom of expression, and therefore in breach of both the Basic Law and the International Covenant on Civil and Political Rights. But the Court of Final Appeal re-imposed the guilty verdicts imposed by a lower court, arguing that the laws imposed a permissible restriction on freedom of expression.

Four weeks after their conviction in the flag desecration case, Leung Kwok-hung and Koo Sze-yiu were jailed for 14 days for shouting slogans in the Legislative Council chamber during a question-and-answer session with the chief executive, Tung Chee-hwa. That incident took place in October 2001, shortly after Mr Tung delivered his annual policy address. It was the fifth time Mr Leung had disrupted a Legislative Council session, and the second time he had gone to jail. The activist said it was unfair to jail him as he had only been expressing his political opinions.

TOUGH SECURITIES LAW PASSED

The intent was to prevent market manipulation...

In March 2001, the Legislative Council passed a tough new law that could be used to penalise financial journalists who publish false or misleading information which could induce people to buy shares or futures contracts. Under the Securities and Futures Ordinance, a journalist who publishes such information could face a maximum sentence of 10 years in jail.

The government originally proposed that a criminal prosecution could take place if the journalist knowingly handled, or was reckless or negligent in handling, relevant market information. Fol-

⁵ Mr Lam faced problems shortly afterwards at Asia Television (ATV), when a programme he had scripted was abruptly dropped to make way for another series. Mr Lam's programme resumed a few weeks later, minus the most controversial segment. Mr Lam declined to discuss the issue with the HKJA, while ATV denied that self-censorship was involved.

*...but the law
unduly exposes
journalists to risk of
prosecution*

lowing lobbying by the HKJA and other media groups, officials agreed to drop reference to negligence in the criminal offence, while retaining it for a similar civil offence.

However, the HKJA feels that this move does not go far enough. It called—without success—for safeguards to be introduced to make it a defence for a journalist to argue in court that he or she acted in good faith in publishing information, and for the prosecution to prove that publication caused real harm. The only defences in the Ordinance cover the re-transmission and live broadcast of material. This fails to cover the activities of journalists who report on market news in their own words and do not reproduce market announcements.

There has been slippage in a number of other areas which could affect press freedom. For example, officials admit that there now is no firm timetable for the enactment of tougher provisions governing the publication of obscene and indecent material in newspapers. In April 2000, the government launched a consultation exercise on a number of proposals, including the printing of a red diagonal line across the pages of newspapers carrying indecent material. Senior officials said they were now reconsidering their stance on the issue in the light of strong opposition from the media and legislators.

There has also been little progress on proposals to enact a stalking law. Under such a law, stalkers who cause “alarm” and “distress” could be jailed for up to two years. Government officials confirmed that they had completed consultation with government agencies, but said there was no timetable for tabling legislation.

FOUR CHINESE-AMERICAN ACADEMICS FREED; ONE JAILED

The HKJA’s 2001 annual report expressed concern about five Chinese-American academics who had been detained on the mainland. Three of them—Li Shaomin, Gao Zhan and Qin (previously reported as Tan) Guangguang—were released in July 2001, following their conviction on spying charges. A fourth, Wu Jianmin, was released in September. The fifth—Zhongshan University historian and Hong Kong resident Xu Zerong—was jailed for 13 years for revealing state secrets.

The case of Hong Kong resident Li Shaomin is of particular interest. The City University associate lecturer was convicted of spying for Taiwan and ordered to be expelled. His expulsion took place 11 days after the conviction, upon the expiry of the period allowed for an appeal. He flew to San Francisco. The question then arose as to whether he would be allowed to return to Hong Kong, and to his university job. Any move to bar him would have implied that the SAR authorities had bowed to Beijing’s wishes.

In late July, Dr Li was allowed to enter Hong Kong, after being detained for five hours at the airport. In early August, the City University decided to allow Dr Li to continue with his current contract. The university’s council also decided that it did not have enough information to hold a disciplinary hearing related to his conviction in Beijing.

The case prompted academics to become more cautious about mainland research. With this obvious implication for academic freedom, the chief secretary for administration, Donald Tsang, said: “The more important thing is academic freedom and the importance we attach to it. We will not change our policy regarding this.” More ominously, a vice-chairman of the pro-Beijing Democratic Alliance for the Betterment of Hong Kong, Lo Chi-keung, said Dr Li was not fit to teach because of his spying conviction.

*Academic freedom
in question*

Ironically, Dr Li announced in March 2002 that he would leave the City University. This was because the institution had turned down his request for a year’s unpaid leave to take up the post of associate professor at a university in the United States. Dr Li said the rejection might be linked to the spying case.

The case of Xu Zerong also provides cause for concern. In February 2002, the Information Centre for Human Rights and Democracy disclosed that the Hong Kong permanent resident had been jailed for 13 years for revealing state secrets. He was reportedly convicted of “illegally supplying national secrets” to a person in Hong Kong and an “illegal operation” to sell Hong Kong periodicals on the mainland.

Mr Xu has published articles in a Princeton University journal on China’s role in the Korean war. He also published an article in the Hong Kong-based Chinese-language magazine, *Yazhou*

Zhoukan, about Chinese aid to Malaysian communists during an anti-government insurgency in the country. Paul Harris of Hong Kong Human Rights Monitor believes revelations about China's role in the Malaysian insurgency may have been the real reason for Mr Xu's harsh sentence.

SECTION 2

Economic woes and threats from within

A bad time to earn a living from journalism

The year under review has not been easy. It has been marked by mass layoffs, the demise of a long-standing regional news magazine, radical changes to one of two English-language newspapers, an attempt to set up a statutory press council, and continuing worries over self-censorship. In this gloomy atmosphere, there has been little scope for challenging, investigative journalism, with the emphasis being placed firmly on day-to-day reporting of news events.

Self-censorship has continued to be a concern among journalists. There is a continuing perception that increasing caution is creeping into media coverage, in particular over issues considered sensitive to the Chinese leadership. The sacked Beijing bureau chief of the *South China Morning Post* (SCMP), Jasper Becker, has written of moves by the Hong Kong and Macau Affairs Office of China's State Council to dissuade the newspaper from covering sensitive issues. The newspaper's editor, Thomas Abraham, has denied such allegations. (See section 1, pages 7-9 for a fuller account of this controversy.)

In particular, Mr Becker has written: "Under the terms of its 1997 return to Chinese rule, Hong Kong is supposed to enjoy autonomy from the rest of China under the policy of 'one country, two systems.' But the changing mentality of Hong Kong's elite—a group desperate to be seen as more Catholic than the Pope but constantly insecure about how to interpret Beijing's wishes—has created a new dynamic of self-censorship."

Less negative news demanded

Pressures—albeit indirect—have also come from Chinese and Hong Kong leaders. For example, the former mayor of Shanghai, Xu Kuangdi, appeared to imply in March 2002 that Hong Kong's economic downturn was in part a result of freedom of expression. He said excessive criticism would affect the morale of civil servants and make Hong Kong lose its spirit of unity. The chief executive, Tung Chee-hwa, adopted a similar line, also in March. He told the Newspaper Society that he hoped the media could help promote solidarity and people's trust in the government.

There was also controversy over whether Mr Tung and other senior government officials were favouring pro-Beijing newspapers. Media critics point to such publications obtaining exclusive interviews with senior officials, in particular in the run-up to the fifth anniversary of the 1997 handover. They also point to one newspaper in particular, *Wen Wei Po*, managing to obtain many details of the March 2002 budget before its release. Also noted was the heavy government support for the June 2002 centenary of another pro-Beijing newspaper, *Ta Kung Pao*.

Critics also question whether it was proper for Mr Tung to allow several pro-Beijing newspapers to use his signed inscriptions as page headings. The publications include *Wen Wei Po*, *Ta Kung Pao* and *Hong Kong Commercial Daily*. Provision of such inscriptions is a common practice in mainland Chinese publications. Democratic Party legislator Cheung Man-kwong asked in April 2002 whether the chief executive was showing favouritism towards such publications. But a deputy secretary for home affairs, Leo Kwan, said Mr Tung hadn't intended to promote any individual newspapers.

Media soft focus for Tung

Sections of the media have also at times taken a soft line on Mr Tung, who has in the past faced intense criticism over his leadership abilities. This was particularly evident during Mr Tung's so-called election campaign, which he won without contest in late February. Media critics noted that newspapers published many stories about Mr Tung's "campaign" at a time when it was obvious that he was not going to face an opponent. They also argued that there was relatively little coverage of activities by those opposing a second term for Mr Tung.

In another example of "soft" coverage, the terrestrial station, Asia Television (ATV), broadcast a two-part interview with the chief executive in February 2002, which programme producers said would show Mr Tung's softer side. The interview focussed on the chief executive's family, childhood and attitudes towards life. It was hosted by a popular quiz show host, Ken Chan, and produced by the news department. The interview was covered widely in newspapers, with the *South China Morning Post* giving it front-page prominence.

Publications also faced pressure to back government or private-sector campaigns to boost confidence in the face of widespread economic gloom. For example, many leading publications and broadcasters put their name to a campaign called Bounceback Hong Kong, which was organised by several private companies led by the public relations agency, Ogilvy & Mather Greater China.

Among those sponsoring the campaign were many media outlets, including some traditional critics of the government, such as the *Apple Daily* newspaper.

While journalists are aware of the problem of self-censorship, public consciousness appears to be lower. Media critics say this raises the possibility of a muted public response if the government takes action against the media, possibly through the enactment of anti-subversion legislation. For example, a survey conducted by the School of Journalism and Communication at the Chinese University in mid-2001 indicated that the general public did not think that self-censorship was a problem. By contrast, it found that journalists were aware of the problem—although they did not think it had worsened since the previous survey three years earlier.

ECONOMIC PROBLEMS RAISE DIVERSITY FEARS

A flurry of layoffs

While self-censorship remains a serious concern among journalists, the economic downturn has posed the greatest threat for the Hong Kong media. In the 12-month period under review, more than 1,000 journalists and media workers have lost their jobs. There have also been wage freezes and denial of the traditional end-of-year double pay. The English-language sector has been particularly badly hit, raising questions about whether media diversity is now under threat in this sector.

The Sing Tao Group has been one of the biggest casualties. A total of 160 employees were laid off in two batches—in September and October 2001. Eighty of them were laid off without notice in September at the group's English-language newspaper, the *Hong Kong iMail*. Those told to leave included the editor, Andrew Lynch, columnist Nury Vittachi and cartoonist Larry Feign. The latter two joined the *Hong Kong iMail* after they were forced to leave the *South China Morning Post*, apparently because their brand of humour was not appreciated by newspaper management.

Since its founding in May 2000 as a replacement for the *Hongkong Standard*, the *iMail* had become a feisty newspaper promoting a wide variety of political views. It has changed radically since the sackings in September. The publication now focuses on business and sports news, and not on politics. It was relaunched in May 2002 as *The Standard*—a variant on its former name.

In a November 2001 editorial to mark a design revamp, the newspaper's leader writer states: "We see a role for a newspaper subscribing to the Western concept of journalism—willing to monitor social changes, to furnish objective solutions and constructive opinion—instead of pointing fingers and fuelling noisy, negative political rhetoric and most importantly a newspaper that appreciates the subtleties of the Chinese culture."

Downsizing risks diluting media competition

The *iMail* and *The Standard* have always been seen as a counter-weight to the dominant English-language newspaper, the *South China Morning Post* (SCMP). The changes at the *iMail* effectively left the SCMP with a virtual monopoly in English-language general news content.

The SCMP has itself seen some layoffs, although not to the same extent as the *iMail*. In October, the newspaper laid off 18 journalists. The publication linked the move to the economic downturn. (The group had earlier announced that profits had slipped 27% to HK\$410 million in the 12-month period ending on June 30th 2001.)

The major casualty of the period under review was the news magazine *Asiaweek*, which closed in November with the loss of 80 staff. Its publisher, Time Inc., blamed a sharp drop in advertising revenue for the decision to close the 26-year-old magazine, which was considered a rival of the *Far Eastern Economic Review*. The latter publication was itself not immune to the downturn, with 36 jobs lost at both the *Review* and its sister publication, *The Asian Wall Street Journal*. The regional news-gathering activities of the two publications have in many places been merged.

The Chinese-language sector has also been hard hit. One of the biggest casualties has been the Next Media group, which publishes the popular and highly profitable *Apple Daily* newspaper and *Next Magazine*. In January 2002, the group laid off about 180 staff—about 10% of all group employees. The company said the move would save about HK\$40 million a year. The sackings followed the laying off in 2000 of 190 staff from the group's Internet publications.

However, despite the layoffs, the group made an aggressive move into the Taiwan market. In May 2001, it launched a Taiwan edition of *Next Magazine*, specialising in sensational stories

and colourful photographs of stars and crime scenes. Next Media says it also plans to launch a Taiwan edition of *Apple Daily* in mid-2003.

Another major casualty has been *Cup* magazine, which was launched as a weekly in May 2001, with more than 200 staff. Following three rounds of sackings, just 20 employees remained on the books, to bring out a monthly publication. The magazine's chief editor, Lau Sai-leung, blamed a drop in advertising revenue, following the terror attacks on the United States in September 2001. The publication was launched by prominent talkshow host, Albert Cheng.

The two terrestrial stations have also been forced to lay off staff. TVB and ATV have sacked about 50 employees each—although in ATV's case those affected were largely from the engineering and production sections. TVB's external affairs controller, Stephen Chan, blamed the economic downturn and a sluggish advertising market for the layoffs—the biggest in the company's 34-year history. Satellite broadcaster Phoenix Satellite Television also laid off 10 staff in the year under review.

The new editorial mantra: "no more headcount"

While other publications may not have laid off workers, they have cut back on benefits, in particular the traditional end-of-year double pay. One radio station, Commercial Radio, went so far as to cut staff salaries by between 6% and 12%. In addition, very few organisations are now hiring staff, making it extremely difficult for journalists who are laid off to find alternative work.

PRESSURES FROM WITHIN

The HKJA's 2001 annual report noted that a non-statutory press council had come into being to press for improvements in media ethics and to consider complaints from the public. In the year under review, the council has announced that it wishes to turn itself into a statutory body, so that it can be granted protection from libel suits. The body asked for public comments on the proposal in October 2001. The HKJA expressed its opposition to the move.

The 27-member Hong Kong Press Council was set up in July 2000, to accept complaints solely about intrusion into privacy. In July 2001, the Press Council expanded the scope of complaints to include prurience, indecency and sensationalism. However, it felt that it could not accept complaints about articles in non-member publications, such as the leading newspapers—*Oriental Daily News*, *Apple Daily* and *The Sun*, which control about 75% of the newspaper market by readership. The council feared that it could be sued by such groups if it published critical judgements.

The HKJA opposed the Press Council's proposal to turn itself into a statutory body on a number of grounds: The creation of a statutory body could harm press freedom; it could open the door to government intervention; it fails to take into account the fact that most democracies adopt a voluntary, not a statutory, mechanism for keeping an eye on the media; and it ignores improvements in media ethics.

The Press Council says the consultation exercise was inconclusive since it received few public submissions. It has since conducted a public opinion survey on the issue. The poll found that 64% of respondents backed exemption from libel actions for the monitoring body. Yet at the same time, just 6% of respondents thought that the council was effective in improving media ethics.

Press Council's move for statutory status still uncertain

The council has essentially put off a decision on whether to continue pressing for statutory status. This may well be related to difficulties in obtaining support in the Legislative Council for such a move. The government says it will not sponsor a bill. This means that an individual legislator would have to table a private member's bill. Such a bill would have to receive backing from the two halves of the Legislative Council. However, the half that includes directly elected members is unlikely to vote in favour of such a proposal, given opposition from pro-democracy political parties and legislators, who fear the effect a statutory body might have on freedom of expression.

The Press Council came into being in response to a proposal from the Law Reform Commission's privacy sub-committee to set up a statutory press council to handle only privacy complaints. The sub-committee is now rethinking this issue, partly in light of the creation of the Hong Kong Press Council. The Law Reform Commission has already endorsed a report on the need to establish several new civil torts on privacy. It is understood that the final report is proposing greater protection for press freedom, partly in response to concerns raised by the HKJA.

This report, together with the one focussing on whether to set up a statutory press council, will be released in the second half of 2002. The government will then consider what action to take.

It is also ironic that the Press Council is promoting radical action at a time when public confidence in the media appears to be rising. Respondents to a Chinese University survey released in November 2001 gave a confidence score of 6.54 on a 10-point scale. This compares with 5.91 in 1998. A survey of journalists also recorded a rise, from 5.13 in 1998, to 6.35 in 2001. A more recent survey, released by the University of Hong Kong in June 2002, also showed a slight rise—to 6.01 on a 10-point scale.

Shift away from serious news to sensationalism and gossip

At the same time, individual publications are not helping themselves. A spate of sensationalist stories in March 2001 prompted a media monitoring group, the Society for Truth and Light, to place a full-page advertisement in *Ming Pao* calling on journalists to follow the joint code of ethics adopted by the HKJA, the Federation of Journalists, the News Executives Association and the Press Photographers Association. (Among the concerns of media commentators were graphic photographs of dead bodies in a villa on the island of Cheung Chau, following a triple suicide by three teenagers.)

In April 2001, the Press Council referred a complaint about sensationalist coverage of the alleged sexual exploits of businessman Louis Lo Siu-fai to the government's Television and Entertainment Licensing Authority, which handles matters relating to indecency and obscenity. In justifying its decision to refer the complaint to a government body, the council argued that some articles contained indecent material. It also issued a release expressing concern about the publication of photographs of the bodies of the three suicide victims.

The HKJA believes the Press Council should adopt a more robust attitude towards media ethics, rather than spending time and effort on transforming itself into a statutory body. In particular, it should take on the responsibility of accepting complaints about all publications in Hong Kong and make efforts to expand its membership to all major publications. It could also take on the role of acting as a conciliator between complainants and publications, in addition to adopting a judgemental approach.

The HKJA is of the strong view that the best way to deal with media excesses is for individual publications to put their house in order, through the use of corrections and apology columns, the printing of letters from aggrieved individuals and the appointment of news ombudsmen to consider complaints from readers.

FURTHER CONFUSION IN THE PAY-TV FIELD

In July 2000, the government awarded pay-TV licenses to five new operators. Two dropped out—Star TV in December 2000 and Hong Kong Network TV in March 2001. In May 2002, the most powerful of the remaining three, terrestrial broadcaster TVB, asked for additional time to sell its majority stake in its pay-TV unit, Galaxy Satellite Broadcasting. TVB became the sole shareholder in Galaxy after Malaysia-based Astro Broadcasting withdrew from the venture in June 2001.

Considerable concern has been expressed about whether TVB will proceed with its pay-TV venture, which would become a major rival to the only existing cable operator, Hong Kong Cable Television (run by the Wharf group).

The terrestrial broadcaster now wants the Executive Council to give it until the end of February 2003—an additional nine months—to find a buyer, so that it can reduce its stake to 49%. The limit is set down in its license, as a way to ensure that the major terrestrial broadcaster does not at the same time dominate the pay-TV sector. The TVB group general manager, Ho Ting-kwan, said the firm was talking with several interested parties. But he warned that if the government blocked the extension, then “we would have no other choice than to give up.”

So far, only one of the new pay-TV operators has started a limited interactive service. This is UK-based Yes TV, which faced a setback when a subsidiary of power company CLP Holdings pulled out of the investment. The other licensee, Taiwan-based Pacific Digital Media, plans to offer a service in August 2002—one year later than planned.

Lack of pay-TV competition likely

Media analysts believe the winner will be the incumbent, Hong Kong Cable. The firm's position was strengthened in May 2002, when Star TV announced that it had reached an exclusive

carriage agreement with the cable operator for several of its satellite channels. In August 2001, Star TV allowed Hong Kong Cable to carry these channels on a non-exclusive basis. A Lehman Brothers media analyst, Stephen McKeever, noted: "It clearly shows that Star TV believes there will be only one dominant player in Hong Kong's pay-TV market."

MEDIA OWNERSHIP CHANGES

There was one major ownership reshuffle in the year under review. One of the two terrestrial TV broadcasters, Asia Television (ATV), announced in June 2002 that a minority shareholder, Liu Changle, would take a controlling 46% stake in the station.

PL-ATV? The move follows a complex takeover of ATV in April 1998 by various businessmen with strong mainland backgrounds and connections (see the HKJA's 1998 annual report). They included Mr Liu, a former propaganda official with the Chinese People's Liberation Army. He is currently the chairman of Phoenix Satellite Television—a joint venture with media mogul Rupert Murdoch's Hong Kong-based satellite broadcaster, Star TV.

Under the deal, Mr Liu will purchase the 24.21% stake held by former ATV chief executive, Feng Xiaoping. This would bring Mr Liu's holding to 38%, which together with an 8% block that usually acts in concert with him would raise his effective control to 46%. Mr Feng stepped down in favour of National People's Congress Hong Kong deputy, Chan Wing-kee, who is considered to be a strong supporter of the chief executive, Tung Chee-hwa.

Mr Chan told a news conference that Phoenix would not acquire ATV, although there would be "more co-operation" between the two broadcasters. Mr Chan also said ATV would maintain its editorial independence. He said: "I have been supportive of freedom of speech and I believe the news quality will improve."

Cosying up to China

However, media critics note that ATV, under its former ownership, forged closer links with mainland China. They note that the station aired many made-in-China soap operas and engaged in programme co-productions with mainland groups. A survey released by the Chinese University's journalism school in November 2001 indicated that ATV had become more pro-China and less pro-Hong Kong.

The latest ownership change will require government approval. The station's new chief executive, Chan Wing-kee, said the station was seeking a waiver for the residency requirement for Mr Liu. The Broadcasting Ordinance states that free-to-air TV service licensees must be "ordinarily resident" in Hong Kong. This does not appear to be the case for Mr Liu. However, the government has the power to make exceptions.

The April 1998 ownership change was also controversial. The Executive Council approved it, but with a number of conditions. One stipulated that Mr Liu should not involve himself in the day-to-day management of the station, nor should he have any role in making programming and editorial decisions. At press time, the government had not made any decision on the latest ownership change.

In another development, in August 2001, the Oriental Press Group sold *Eastweek* and an entertainment magazine, *Oriental Sunday*, to the Emperor Group for HK\$65 million. The agreement also gave the Emperor Group a 100% stake in *Oriental Sunday*'s website and a 50% share in *Eastweek*'s electronic site. The Emperor Group, through listed publishing arm Emperor Technology Venture, also owns the *Hong Kong Daily News*.

In October 2001, Oriental Press Group's rival, Next Media, incorporated its most profitable publications, including *Apple Daily* and *Next Magazine*, into its listed vehicle. The group reported a HK\$74 million loss for the six months to September 2001, compared with a loss of HK\$48.7 million during the same period in 2000. Next Media launched a Taiwan edition of *Next Magazine* in May 2001, and is preparing a Taiwan edition of *Apple Daily* for launch in mid-2003.

There was one launch of note in the year under review. The free newspaper, *Metro*, hit Mass Transit Railway stations in April 2002. The 24-page tabloid employs 40 people, including journalists. The Swedish publisher, Metro International, has run into trouble in some Western countries, with charges that its modus operandi threatens traditional media outlets and hence journalists' jobs. The Hong Kong publication's launch went off without fanfare or protest.

CONTEMPT AND LITIGATION

Declining standards

On the legal front, Chinese-language newspaper *The Sun* and its chief editor were found guilty of contempt after a series of articles led to the collapse of a murder trial in March 2001. The prosecutor also alleged that parts of the articles were fabricated. In a ruling in January 2002, the publisher of the newspaper was fined HK\$150,000, while the chief editor, Lee Chung-pak, was ordered to pay HK\$30,000. The company was also ordered to pay costs. The prosecutor said a fine of “several hundreds of thousands of dollars” for the newspaper and a “significant” fine for the chief editor would be appropriate.

Media analysts suggested that the fines meted out by the Court of First Instance would not be a great deterrent. *The Sun* is part of the Oriental Press Group, and is Hong Kong’s third most popular newspaper.

In December 2001, the chief secretary for administration, Donald Tsang, threatened to sue the weekly news magazine, *Eastweek*, over an article it carried with his former cook, Yu Yin-ping. The former chef was commenting on a book which he planned to publish about his time working for the chief secretary. The magazine later apologised to Mr Tsang and agreed to pay him HK\$120,000 in compensation. *Eastweek* published a full-page apology stating that it would unconditionally withdraw the article in question. Mr Tsang donated the money to the Community Chest.

In the same month, a judge ordered the *Apple Daily* newspaper to pay an unprecedented HK\$3.6 million to a solicitor who became depressed after the publication alleged that she had absconded from her law firm with clients’ money. *Apple Daily* ran an apology the following day. However, Madam Justice Maria Yuen ruled that the plaintiff could recover damages for mental and physical injury arising from a civil wrong. The judge also noted that the stress caused by the article had been a factor in the solicitor giving birth prematurely.

SECTION 3

Media pressures under Tung's first term

The five years since the handover of sovereignty to China have seen a slow but steady erosion of the rights once taken for granted by the people of Hong Kong. Its impact so far is hardly perceptible and is felt most acutely only by a small minority—for example, the Hong Kong families of mainland-born children who were stripped of their right of abode, and the activists who take to the streets to protest against curbs on the freedom of assembly. The heat is also on the media, which have to overcome their own instincts for self-preservation to counter glossed-over official accounts of events locally as well as on the mainland.

*Narrowing of scope
for uninhibited
reporting*

Our reporting on media freedoms, part of our overall monitoring of freedom of expression in Hong Kong, leads us to conclude, overall, that the trend is towards a gradual narrowing of the scope for uninhibited reporting and discussion of topics essential to the well-being of the SAR and the mainland. It is a disheartening chapter in which many play less than flattering roles—the media for yielding perhaps a little too readily, the business community for failing to speak up about concerns that it expresses in private, and the general public for its indifference. Above all, the governing authorities bear the heaviest responsibility because their actions have led most directly to the flawed state of media freedoms in Hong Kong.

PROBLEMS WITH CHINA

Previous annual reports have documented how Chinese leaders have tried to define limits for the Hong Kong media. Some of these attempts have been in the form of general words of admonition, as when President Jiang Zemin said during a December 2000 visit to Macau that the media should “not only pay attention to press freedom, but also to their social responsibilities.” At other times, there have been specific warnings about toeing the line on matters deemed sensitive by the Chinese central government, notably Taiwan's status.

*China is a world
leader in media
intimidation*

According to the US-based Committee to Protect Journalists, mainland China ranks No. 1 in the world in terms of how many journalists it holds in jail, a status it has held three years in a row. Granted, none of those being locked up in China are Hong Kong journalists. But the warnings for the SAR media, coming from a government with a record of repression, have a chilling effect regardless of whether the words are followed by action.

In any event, the absence of a crackdown in Hong Kong does not mean journalists are secure. The local media cannot afford to ignore the mainland in their coverage. Once a news organisation sends its journalists there, the journalists—and, by extension, their employer—become hostage to the whims of the authorities; if working without approval, journalists must carry out their duties at their own risk. Section 1 of this report cites instances of Chinese authorities harassing and detaining Hong Kong journalists for no legitimate reason. Sometimes it may be because a subject being covered, such as labour unrest, has touched an official nerve. Other times there is no plausible motivation other than to intimidate. Our examples represent only the tip of the iceberg because few targets of such intimidation will discuss their cases even when promised anonymity.

Sometimes Beijing does not even have to work through the media to shape public opinion in Hong Kong. During the summer of 2000, public dissatisfaction with Tung Chee-hwa, the SAR's unpopular chief executive, swelled so much that the grumblings of normally cautious business tycoons started finding their way into the media. In response, the vice-premier Qian Qichen summoned Mr Tung's deputy, chief secretary Anson Chan, to Beijing and chastised her for not giving enough support to Mr Tung. Mrs Chan was rumoured to be part of an anti-Tung conspiracy. Whether the rumour had any basis was irrelevant. When the tycoons saw how she was treated, they stopped grumbling and pledged their backing for Mr Tung.

PROBLEMS WITH THE TUNG ADMINISTRATION

While critics of Mr Tung maintain that he gets a bad press because he is ineffectual, the chief executive's backers believe the opposite: that the press unfairly paints him as such. Blaming the

**The Robert Chung
affair highlighted
official attempts to
gag criticism**

messenger, a key component in Mr Tung's media strategy during his first term in office, resulted in heavy-handed efforts to quash bad news.

In July 2000, Robert Chung, a University of Hong Kong (HKU) social scientist, alleged in a column in the *South China Morning Post* that his bosses had tried to gag his opinion polling, which tracked Mr Tung's popularity. An HKU-appointed board of inquiry headed by a retired Court of Appeal judge subsequently linked the pressure on Mr Chung to Andrew Lo, Mr Tung's then senior special assistant. Separately, *The Asian Wall Street Journal* reported that Mr Lo tried to persuade major companies to withhold advertising from *Apple Daily*, the second most popular local newspaper and a tough critic of the chief executive.

In Mr Tung's first term there was increasing evidence of manipulation of the media. Favoured publications were the recipients of leaks while others were left to scramble for news as it was officially released—a carrot-and-stick approach that appears aimed at prompting critical publications to adopt a friendlier line towards the government. Another government tactic to appear over the past five years was increasing adoption of off-the-record briefings where major news stories were announced quoting only senior government sources—a tactic which allows government officials to disavow themselves of what they said if problems arise.

As the Tung administration begins its second five-year term, even critical journalists are more likely to receive cordial treatment. The government's increasing sophistication at public relations means more senior officials are giving interviews more readily. Live programmes on air seem to be preferred, perhaps because they allow more direct access to the public. Some officials even volunteer gossipy tidbits about their personal lives, something once considered unbecoming of people in authority.

Despite the charm offensive, the newspapers most critical of Mr Tung do not seem to have eased up. Two of them, *Oriental Daily News* and *Apple Daily*, are respectively first and second in terms of readership. The *Hong Kong Economic Journal*, though small in circulation, is influential in business circles. Some journalists perceive a degree of softening among other independent newspapers. The three Beijing-controlled papers have continued to be solid cheerleaders for Mr Tung.

**A major obstacle to
openness is Tung
himself**

It would be overly cynical to dismiss the friendlier face of the administration as all spin-doctoring and no substance. But to go from here to the conclusion that an era of openness is at hand requires a leap of faith. One obstacle to greater openness is Mr Tung himself, a leader of the top-down, patriarchal school who has little time for populist politics and low tolerance for criticism. The problem goes deeper than his relations with the media. The lack of openness translates into a lack of public consultation and transparency in policy-making, the most recent example being the so-called accountability system of government which he champions.

The system, which takes effect on July 1st, gives the chief executive the power to dismiss at will the 14 most senior government officials. Previously, most of the civil servants in these posts enjoyed almost-guaranteed job security, a factor many believe provided a necessary system of checks and balances by making them unafraid to question policies with which they disagreed. In a column in the *South China Morning Post*, Margaret Ng, a barrister and respected member of the Legislative Council, called Mr Tung's move "a thoughtless proposal" that in fact reduces accountability: She worried that it concentrates too much power in the hands of the chief executive, who answers only to the Chinese central government and to no one in Hong Kong.

Though the accountability system was two years in the making, its details were a well-kept secret confined to a small circle of Tung advisers until the system was unveiled as a fait accompli on April 17th. The chief executive had made brief references to the idea in his annual policy addresses of the past two years. Otherwise, the public and even most high-level officials weren't clued in on the details. Even now, many questions remain as to how it will work. That isn't to say the government always functions in this way. The administration's proposal to legalise soccer gambling, a subject in which Mr Tung seems to have somewhat less interest, was subjected to months of tough public scrutiny and debate. A decision has yet to be made on this issue.

TROUBLE WITHIN THE MEDIA

For all of their faults, the Hong Kong media through the 1980s and much of the 1990s were a mine of information about China and its Communist leadership. Rich with rumours and insight

about policy debates and political infighting, local newspapers were essential reading for China watchers in the West. Mainland journalists watched with envy as stories they knew to be true, but didn't dare write, were brought to light in the British colony.

Self-censorship on the rise

Nowadays, most Hong Kong journalists look to their Chinese counterparts for cues on what is safe to publish. The main reason, as stated previously in this report, is fear for their personal safety. A senior news executive says her paper focuses on consumer stories, accident and crime stories, and stories about low- to mid-level corruption in its mainland coverage—safe ground because that is what the mainland papers cover. A television producer adds this observation: “There are certain taboo subjects everyone recognises, such as the personalities and mistakes of central government leaders and separatist movements in Tibet and Xinjiang.”

Some sensitive mainland topics still find their way into the Hong Kong media, but increasingly, these riskier stories are drawn from news agency reports.

Don't anger Li Ka-shing

Taboos are creeping into local coverage as well. Some newspapers apparently sought to go easy on Richard Li Tzar-kai when the foreign media reported in March 2001 that the chairman of Pacific Century CyberWorks did not actually have an undergraduate degree from Stanford University, as had been widely believed. Several journalists said that their superiors had urged reporters covering the story to avoid being too negative. These journalists say that, in general, their newspapers are even more reluctant to run stories critical of Richard Li's father, property tycoon Li Ka-shing, who is recognised as one of the most powerful men in Hong Kong.

There was less inhibition about pursuing Louis Lo Siu-fai, a down-and-out property speculator who spilled tales of drug-taking and sex with starlets. His story originated in March in the gossipy *Eastweek* magazine. It became the talk of the town after several papers sent reporters to pursue him in his travels to London and Paris and report on his daily activity, including what he had for breakfast and when he crossed the street. On his return to Hong Kong, he was greeted at the airport by some 60 journalists, representing most of the local media.

Apple Daily and *Oriental Daily News* are generally regarded as the pace setters in reporting the seamier side. But few newspapers are immune. The result is that political news is now regarded as boring, and serious topics are in danger of being crowded out by the tragic and trivial.

Important news event goes over everyone's heads

One example is news coverage of a policy statement with far-reaching consequences by the financial secretary, Antony Leung, in his March 6th budget address. In the address, Mr Leung announced a planned government shift away from a policy of “positive non-interventionism”. This term refers to a belief that the government should keep its role in the economy to a minimum. Hong Kong owes its prosperity of the past several decades and its reputation as one of the world's freest economies in no small measure to this philosophy. Although some people argue, as Mr Leung does, that the philosophy is outdated, and others see deep flaws in it, a shift so fundamental to Hong Kong's well-being merits debate. Indeed, such a debate, with Mr Leung playing an active part, took place for several days running in *The Asian Wall Street Journal*. Many other foreign publications also weighed in, questioning his commitment to the free market. However, in the local media the whole issue received mostly passing mention.

That apparent indifference contrasted sharply with attention given to Mr Leung's love life. In March, *Ming Pao*—which regards itself as one of Hong Kong's more serious papers—revealed in a prominent story that he was dating, and planned to marry, Fu Mingxia, a mainland Chinese diving star. A rush by newspapers (serious and otherwise) followed, with paparazzi teams dispatched to Beijing to shadow Ms Fu and multiple news pages devoted to recapping and analysing the romance.

This case reflects growing trivialisation and sensationalisation of the news, especially (but not always exclusively) among mass circulation dailies. Several factors appear to be at work here—fierce competition among newspapers; fewer sources of information, particularly on the political front; and a growing disillusionment among readers about the political process, prompted in large part by efforts by the administration to de-politicise Hong Kong. Exacerbating this trend have been the two severe economic downturns of the past five years, and the effect they have had on people's livelihood. These trends do not auger well for the coming five years.

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ARTICLE 19 takes its name and mandate from Article 19 of the Universal Declaration of Human Rights which proclaims the fundamental right to freedom of expression. ARTICLE 19 works impartially and systematically with local partners, organisations and individuals to identify and oppose censorship in its many forms, to defend victims of censorship and to promote strengthened national and international standards for the protection of freedom of expression.

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HONG KONG JOURNALISTS ASSOCIATION

The Hong Kong Journalists Association (HKJA) is the only industry-wide union of journalists in Hong Kong.

The HKJA promotes the right to freedom of expression and actively focuses on a range of press freedom and ethics concerns. As a trade union, the HKJA focuses on labour rights, pay issues, health and safety, and training.

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