

PETER C.L. LO

24<sup>th</sup> March 2004.

The Chief Secretary  
Constitutional Development Task Force Secretariat  
Constitutional Affairs Bureau  
3<sup>rd</sup> Floor, Main Wing  
Central Government Offices  
Lower Albert Road  
Central  
Hong Kong

B Y H A N D

Dear Chief Secretary,

Constitutional Development

As a practising solicitor who takes an interest in constitutional development I make the following observations for consideration by the Task Force.

Actual situation

The following are elements of the actual situation in Hong Kong at the present time:

- (a) the executive led Government and LegCo are in frequent disagreement;
- (b) Government policies are subject to frequent criticism by the media and LegCo;
- (c) whether justified or not, the prevalence of criticism weakens the authority of the Government;
- (d) there is at least the perception that Government is often out of touch with popular sentiment: the march on 1 July 2003 was an expression of discontent;
- (e) the march on 1 July 2003 was also an indication of increased political awareness on the part of Hong Kong people;

Cont'd...2/

The Chief Secretary  
Constitutional Development Task Force Secretariat  
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24<sup>th</sup> March, 2004.

- (f) there has been increasing demands for further democratization;
- (g) for Government to function effectively Government must convince Hong Kong people that it is responsive to their wishes and is considerate of their welfare;
- (h) additionally, the Government must also address the reality of increased political awareness; and
- (i) constitutional development could be an effective step towards the restoration of trust and goodwill towards the Government.

Gradual and orderly progress

The following considerations would be relevant in defining what is gradual and orderly progress in relation to the selection of the Chief Executive:

- (a) as a general principle there must be greater participation by Hong Kong people in the process of selection;
- (b) under the existing law selection is made by the Election Committee;
- (c) selection by universal suffrage is contemplated by the Basic Law;
- (d) universal suffrage would theoretically provide the greatest degree of participation;
- (e) the question is transition from the Election Committee to universal suffrage;
- (f) the retention of some role by the Election Committee in the process of selection would satisfy the gradual and orderly requirement;
- (g) a critical step in selection by universal suffrage is nomination by a nominating committee under Article 45 of the Basic Law: before any candidate could be elected he must be nominated;
- (h) Article 45 requires the nominating committee to be broadly representative;
- (i) the Election Committee is described in Annex 1 of the Basic Law as broadly representative;
- (j) in terms of the Basic Law the Election Committee qualifies to become the nominating committee;

Cont'd...3/

The Chief Secretary  
Constitutional Development Task Force Secretariat  
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24<sup>th</sup> March, 2004.

- (k) by virtue of its composition LegCo also qualifies to be described as broadly representative, additionally it is an elected body;
- (l) an alternative is for LegCo to become the nominating committee;
- (m) LegCo has greater public recognition than the Election Committee; and
- (n) if either of the existing bodies could become the nominating committee then it would be relatively simply to put in place any procedural requirements for selection of the Chief Executive by universal suffrage in 2007.

I hope the foregoing observations will be of some assistance to the Task Force.

Yours sincerely,

(Signed)

Peter Lo