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Constitutional Development Task Force Secretariat      Fax: 2523 3207  
Constitutional Affairs Bureau      email: views@cab-review.gov.hk  
3/F, Main Wing  
Central Government Offices  
Lower Albert Road, Central  
Hong Kong

Sirs/Madams,

Our Views on (Part 2)

Constitutional matters in the Hong Kong Special Administrative Region and "Issues of principle and legislative process relating to constitutional development as laid down in the Basic Law" with respect to the selection of the Chief Executive and formation of the Legislative Council of the HKSAR:

Actual situation in the HKSAR

(1) Bad power structure

The political system in the HKSAR is fundamentally flawed. It gives unchecked absolute power to the Chief Executive. There are no checks and balances and share of power with the people (see (2)) and the different public bodies. (The Legislative Council, Executive Council, District Council, etc, have no statutory power).

Like the Chief Executive, the judiciary, the executive bureaus, the quasi-autonomous non-governmental organisations (e.g. the EOC, URA, Hospital Authority, ..., advisory boards etc), and the Legislative Council are not answerable to the public. Unless they are caught committing crimes, they can fatten themselves while injuring public interest.

Such total lack of accountability is systemic, an inevitable result of the current power structure that concentrates all power to a select few but completely ignores the interests of but exploits the masses.

(2) The people having no share of power, denied political participation, this system encouraging & leading to poor self-interest-oriented policies.

The people of Hong Kong have no participation power in the running of the government, appointment and dismissal of the Chief Executive. This has to change.

Universal suffrage cannot address this problem because first at elections people are given only a few choices who they may all dislike, and more importantly, once elected the Chief Executive / Legislators practically can do whatever they like before the next election. So it is more important that the people can participate in the running of government. And mechanisms and procedures have to be set up so that the public can initiate the processes to impeach, sanction and remove the Chief Executive, LegCo members, ExCo members, Chief Justice, and other public body (e.g. EOC, Hospital Authority) officials. Public participation is what Democracy is meant to be.

(3) Classism: free lunch for the rich (where is the money from? the poor)

The current political arrangement ignores the grassroots - the working class, the disadvantaged, the minorities - and the silent majority. The Chief Executive, senior officials and most legislators show an utter contempt for their concerns and welfare.

Such pre-1997 colonial elitism of excluding most people and cultivation of a ruling elite is, sadly, continued even today. Executive-led government is inherently classist and elitist. The quangos and advisory boards are full of big business people and professionals; grassroots representation is almost nil and if present they make up such a tiny minority that they are no more than wall flowers. Decisions are based on business interests and focussed on money-engendering - for the big businesses; public interest is no consideration. Why? The public at large are not given any political power.

The wealth of the HKSAR is not shared by the public but is given to the few obscenely rich and powerful people like Li Ka-shing & family, just like the colonial days. The people don't have political power, that's why they have no share in the wealth; and that's why the poor, old and those at the bottom of the social structure have been labelled lazy and a burden to society. Where is compassion? Not only are they robbed of their share of wealth, they are also being looked down upon, their rights are trampled on, or at least ignored by the government, the rich and the middle class.

(4) Public participation is in name only because the current public consultation "exercises" are elitist.

The current canvassing of public opinion by the Constitutional Development Task Force is the right thing to do. But much more ought to be done. For example, public education by the executive must be well thought and thorough. No more stupid things like those TV adverts on the Basic Law and that "must register first" advert about voter registration. Any public education materials - adverts, pamphlets, booklets, flyers - must be prepared by those people with an in-depth knowledge of the issues in question.

The senior officials must not only face the public like what the Task Force trio are now doing, but to reach the ordinary people in public forums, in places like schools, public housing estates, etc, where grassroots people can attend. Steps must be taken to make sure that the grassroots can feel that their

concerns and opinions are respected rather than being trashed as with the current situation. For instance, grievances of the public must be addressed. Right now, they do exactly the opposite: one obscene case is the Hospital Authority people awarding themselves fat bonuses for saving money by endangering medics' lives during the SARS outbreak.

All this is tied to situations (1), (2) and (3). We must put in place a system where the masses can share the power by not only electing the Chief Executive and the legislators, but can participate in all levels of decision making. Major policies, constitutional reform, district affairs, public health etc. The number of quangos and advisory boards must be heavily reduced and the related executive powers given back to the SAR government.

A system of public scrutiny (of government departments and public bodies) must be in place. For example watch dog groups, which must have a sizeable grassroots participation and power. Informal districtwise public hearings and forums (not those with statutory powers) should be run, where public officials are required to attend, listen and explain.

As the legislators are mostly elites, they tend to ignore the interests of the people. District Councillors can have a role for channelling public opinion to the SAR government. Elected members of each district council can form a panel, like the Constitutional Development Task Force, to canvass opinions from their electorate and submit to the relevant bodies for consideration before a policy is made and after a policy is promulgated. District Councillors should have more power in the running of home affairs.

The Home Affairs Department must play a more active role in public consultation, especially on the grassroots level. Right now grassroots participation is essentially nil. And the ordinary people, knowing that their interests are no concern to the government and the legislators and public body officials, form the silent majority. To make them speak out, either they get extremely angry (as with the July 1 march last year protesting against Tung Chee-hwa bad administration especially over his SARS fiasco), or they feel that the government will respect their views.

Government is too arrogant. This is because Hong Kong society is classist, the political system necessarily brings about unaccountability, but the people have no power. The voice of the people must be heard and listened. To do this we must first get rid of classism and elitism. To start, let us first rid our executive-led power structure.

(5) Law professionals (barristers in particular) and lobbyists too influential

The Legislature is dominated by QC's/SC's and barristers, and even the judiciary take common law as supreme truth; anything else is inferior. They don't take moral as their guiding principle. They only follow what the Queen of England and her agents say. Barristers and solicitors and public law people dominate the Legislative Council and public bodies, and they are imperious, high and mighty, noisily say their opinions are public opinion. Public voice cannot be heard.

Hong Kong is full of lobbyists. They influence government policy a lot. Some are in the public bodies. They are paid by the powerful and wealthy. The dominance of lobbyists reflect Hong Kong's classist and elitist nature.

Hong Kong is elitist; that means power lies in the hands of the rich and the traditional powerful (read barristers and families getting rich and/or influential under colonial rule). Since politicians tend to pander to the noisy and powerful people, without public share of power, they tend to hurt the ordinary people's interests. We must limit the influence of law professionals and lobbyists before instituting universal suffrage, lest the common law people and big businesses can further arrogate power and wealth to themselves.

To prevent the undue influence of lobbyists, the government must listen to wider public opinion. As for barristers, the government must set a ceiling on the percentage of people from each profession in the Legislative Council and District Council as well as public bodies and quangos.

(6) The press is biased.

In HKSAR, the local press behave awfully. Perhaps the press do take side. But editing out of context & lying is unacceptable. Examples are TVB, Apple Dally & Ming Po, and the Hong Kong Economic Journal. They take part in the war against the China Central Government but they are not or not perceived to be anti-communist. It is more than an Ideology thing.

### Conclusion

Allowing universal participation has to be addressed along with adequate sharing of power among the public bodies and the people, the setting up of a system of checks & balances, and formulation of procedures of punishing & removal from office of public officials, before universal suffrage can be instituted. Above all, the power of the Chief Executive must be trimmed. Equally important there must be a fairer share of Hong Kong's wealth. These all can be achieved by 2007 when universal suffrage can be introduced but only after all these measures and mechanisms are incorporated into the system and running.

We will discuss more on constitutional matters and rule of law later. For example, Article 23, Article 73, the Judiciary and legal system of Hong Kong.

Prepared by