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Response to Third Report of the Constitutional Development Task Force issued in
May 2004

Submitted by Nicholas and Margaret Brooke

Issues raised in Third Report	Brooke Response
(i) No. of members of Election Committee	Increase to 1758
(ii) Composition of Election Committee	4 sectors with 400 from each plus an additional 5 th sector comprising 60 Legco members, 21 representatives from the Heung Yee Kuk, 36 NPC deputies and 41 representatives of CPPCC members
(iii) No. of members of Election Committee required to nominate candidate for Chief Executive	Minimum of 5% Each member can nominate more than one candidate
(iv) The delineation and size of the electorate of the Election Committee	No change to current arrangements for 1 st , 2 nd and 3 rd sectors Increase number of District Councillors in 4 th sector to 400 i.e. all <i>elected</i> councillors Add 5 th sector as above
(v) Additional proposal: No member of the Election Committee should have more than one vote	Legco members elected by a Functional Constituency should not represent that constituency on the Election Committee as they will be members of the Election Committee via the 5 th sector

NOTE:

The above proposal maintains the overall ratios between the existing four sectors as now set out in the Chief Executive Election Ordinance by each sub-sector doubling its numbers. The proposed increase in numbers of District Councillors in the 4th sector will introduce an increased element of geographic representation as the Councillors will have been themselves elected by voters within their own districts. The new 5th sector would comprise those already in representational positions within the community and merely recognises those positions.

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| (vi) | Number of seats in Legco | No change, maintain at 60
Provide more staff and resources
for members |
| (vii) | Number of seats returned by
geographic and functional
constituencies | Maintain each at 30 seats
Proportional representation list
system should be discontinued and
each voter permitted to vote for his
choice of candidates up to the
number of seats available in that
constituency |
| (viii) | Delineation and size of Legco
Functional Constituencies | Corporate votes should be abolished
and each company nominate a
director as an individual elector
Individual electors should only
have one vote
When only one candidate, there
should still be an election and a 50%
support level demonstrated |
| (ix) | Provisions regarding nationality of
Legco members | Maintain current system with 12
Functional Constituency seats (20%)
being open for foreign passport
holders |

Broader issues of Constitutional Development, Institution Building and Governance in Hong Kong

The following comments are made in the context of the certain realities, some of which are ignored or overlooked by participants in the ongoing constitutional debate:

- Hong Kong is an integral part of the People's Republic of China even though the socialist system and policies of the Mainland are not practised in Hong Kong under the "One Country, Two Systems" principle
- Our systems, policies and laws are required to be based on the Basic Law of the Hong Kong SAR which is, in turn in accordance with the Constitution of the People's Republic of China
- Constitutional development in Hong Kong must be consistent with the basic policies of "One Country, Two Systems", "Hong Kong people ruling Hong Kong" and "a high degree of autonomy"
- Under the Basic Law "the ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating

committee in accordance with democratic procedures” and the “the ultimate aim is the election of the Legislative Council by universal suffrage”; however, there is no timetable and all such constitutional development must in no way contradict the principles of an executive-led system and “balanced participation” and should only progress in a gradual and orderly manner consistent with the actual situation in Hong Kong.

Comments and Views

1. Whilst there have been many differing views expressed in the recent debate over constitutional development, there has been no indication whatsoever of any wish to change the reality of China’s sovereignty over Hong Kong – many are highly critical of both the Hong Kong and Chinese authorities in so far as their handling of the constitutional development debate is concerned but there has been no promotion of independence.
2. The main reason for the strong reaction to the “Interpretation” and “Decision” of the National People’s Congress in April regarding future constitutional development was the lack of a proposed timetable, not the fact that a move to universal suffrage in 2007/8 would not be considered or that other associated matters had been clarified, perhaps not to everyone’s satisfaction. There should be as little involvement as possible of the National People’s Congress in the consultations going forward as this unnecessarily raises the temperature of sections of public opinion in Hong Kong.
3. In the section titled “3.16 The Actual Situation at Present” of the Second Report of the Constitutional Taskforce issued in April 2004 it is stated that “Hong Kong is a market orientated and open economy and a cosmopolitan city. It is a financial centre, shipping centre, communication centre and commercial centre of Asia. In 2003, our per capita Gross Domestic Product exceeded US\$23,000. Our level of economic development ranks among the highest in the world. Hong Kong has long been renowned for its rule of law. It has a civil service whose members are persons of integrity and dedicated to their duties. There is a high degree of social mobility in Hong Kong. Our work ethic is positive. People are pragmatic and keen to upgrade their levels of educational and professional attainment through continuing learning. There is a free flow of information. The mass media is multi-faceted and flourishing. There is freedom of expression. The public in general takes an interest in public affairs and in their community.”

This does not describe a community that is “immature” and lacking the calibre to implement universal suffrage as stated by some factions. It indicates a community that has the capability to understand political, economic, legal and social issues and while the majority view may not always accord with the wishes and beliefs of some of those who have had a high degree of influence in the past, this is what democracy is all about. Whilst the political parties need to mature, to develop a sense of responsibility and inclusiveness and the capacity for objective, long term policy

making, this is the only weak link in the community's readiness for universal suffrage and the strengthening of this link should be the focus of attention for the next 5 or so years.

4. The problems experienced by Hong Kong since 1 July 1997 and the ways in which they have been handled, not always very successfully, by the Chief Executive and his advisory team have led to criticism and a tendency to "witchhunt" which is not healthy and springs from a widely held belief that the system itself is flawed. Indeed executive-led system has been shown to have its limitations in a changing and more complex world and Exco and Legco while able to act as a mutual check on the Chief Executive's authority are not able to "coordinate" or fully complement each other effectively, leading to inefficiency, delay and feeling that much goes on behind closed doors which really ought to be openly discussed with the community. The relationship between the Principal Officials and Legco also leaves much to be desired.

There is therefore a significant body of opinion which holds that to improve governance there first has to be a complete change of the system, something not possible under the Basic Law. What is actually required is a real change in attitude, in mindset, by all sides – the Chief Executive and his Principal Officials, Exco, Legco, the civil service and the community so that policies are fully debated, not simply imposed, so that there is real consultation, not just a choice of limited, predetermined alternatives, so that the public is really informed and not just fed what those on the Government side want it to hear.

A real disconnect and lack of trust in "government" in its widest sense has developed in the community so that many who care for Hong Kong and its future no longer believe much of what they hear and perceive conspiracies and individual agendas where none in fact exists. Hong Kong can be proud of the transparency of its legal system but transparency in the area of governance leaves much to be desired.

5. Training in public administration is lacking in Hong Kong and steps should be taken to introduce university courses, seminars, lectures, etc. to enable those interested in taking public office to gain insight into what such involvement entails and what the public can justifiably expect from its legislators and civil servants. Such training would also enable those in public service and having public office to understand the concept of the "loyal opposition" which is essential in order for the executive-led system of government to function equitably and efficiently. Such an understanding could have avoided much of the bitterness of the recent debate over "patriotism".

It would also be helpful if civics classes in schools could be expanded so that the younger generation will be better equipped to take part in political discussion and to participate in Government than their parents and grandparents.

6. Political parties in general have experienced difficulties in attracting members on a large scale but one or two have been able to attract significant and widespread support. The strength of political parties should not be assessed on their membership but on the numbers of votes that they can attract. It is true that attitudes and opinions have evolved over the last few years, but this is a sign of Hong Kong's maturity and adaptation to the changing economic and political framework since 1997.

7. Independent and objective public policy research is important in fostering effective policy making and in framing informed public debate and discussion. There is a lack of such research in both government and the private sector and there are few experts focusing on Hong Kong. Whilst the Central Policy Unit may be helpful in exploring this area of work, encouragement should also be given to private institutions and think tanks that could make valuable much needed contributions.

8. It is appreciated that any future constitutional development should meet the interests of different sectors of society and that there should "balanced participation". However, given the Basic Law's stipulation for eventual universal suffrage and, by implication the eventual abolition of the functional constituencies, a timetable should be drawn up and agreed now to enable the various sectors to organise themselves for participation in the governing of Hong Kong via the geographic constituencies as and when the time comes. In our view this should be as part of the elections to take place in 2012, and no later, with such a decision being announced as soon as possible.