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15 October 2004.

Sze Pui King Ivy, Sze Pui Yiu Patricia,

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Sirs/Madams,

Our Views on (Part 3)
Constitutional reform in the Hong Kong Special Administrative Region +
"Areas which may be Considered for Amendment in respect of the Methods for
Selecting the Chief Executive in 2007 and for Forming the Legislative
Council in 2008"

Attached is our views on constitutional reform in the Hong Kong Special
Administration Region. Read it together with our last 2 submissions of 31
March 2004 and 14 April 2004.

You can publish our names and views but not our address in your report on
public views on constitutional reform. Please send us an acknowledgement
of receipt.

Thank you,

Sze Pui King Ivy, Sze Pui Yiu Patricia

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Our Views on (Part 3)
Constitutional reform in the Hong Kong Special Administrative Region +
"Areas which may be Considered for Amendment in respect of the Methods for
Selecting the Chief Executive in 2007 and for Forming the Legislative
Council in 2008"

This proposal (Part 3), should be read in conjunction to our last 2
submissions of 31 March 2004 (Part 1) and 14 April 2004 (Part 2). Together
they give our views on constitutional reform in the Hong Kong Special
Administration Region.

The method of selecting the Chief Executive and the make-up of the
Legislature in 2008 and after are only part of the political system of Hong
Kong; how they should be done should be determined by the method of
governance of the Special Administrative Region and the
rationale/philosophy behind it. Therefore we cannot just say: choose them
this way. We must also look at the political institutions in their
entirety.

(I) The Chief Executive of the Hong Kong Special Administrative Region, &
The Electoral College

(a) Method for Selecting the Chief Executive in 2007

The NPC Standing Committee have ruled out the method of Direct
Election/Universal Suffrage of the Chief Executive (CE) for 2007. Are
there any other methods, that are more fair than the current arrangement
(i.e. Election Committee) while remaining simple? Answer: Electoral
College. This must be a fair sample of the general population.

This Electoral College method, should be, in essence, one that reflects the
wishes and preferences of the Hong Kong people, so it must have a
proportional cross-population representation. Its members have to be
selected from registered voters from the general public. The current
Election Committee membership is made up of a few elite from the
super-rich, business people, professionals and a few others; these vested
interests are inevitably unaccountable to the public. Also the current
Election Committee of 800 is distortedly too small considering there are 3
million on the electoral roll.

(b) The Electoral College

Terminology : "Electoral College" here refers to the voting representatives in our proposed "Electoral College" method to distinguish it from the exclusive-club "Election Committee" under the existing Chief Executive selection arrangement.

(i) Size of the Electoral College

HKSAR has a population of 6.7 million and 3 million registered voters. Pick 1 2% of the population or registered voters and this is about 30,000 to 130,000. This would be a very accurately representative sample of the general public, but still is many times different from universal suffrage.

(ii) Selection of the Electoral College members

Its members must be picked randomly from the general public and they must be registered voters. HKSAR is divided into 18 administrative districts, each having its District Council. The Electoral College, or list of Electors for the selection of the Chief Executive, can be formed by randomly picking 2% of the registered voters in each of the 18 Districts. Based on past Legislative Council elections' statistics that around 50% would vote, the number who will cast their votes would be roughly 1% of the registered voters. In each district, the number of eligible electoral college members would be a few thousand at most, therefore highly manageable.

(iii) Method to Select Electoral College members

The selection process must be open, fair and random. The random method has yet to be worked out. Social status, wealth, income, profession, education, ethnicity should never be factor under consideration in the random method. But different ethnic groups, socially disadvantaged and people with disability have to be included in the Electoral College.

(iv) Other functions of the Electoral College

This Electoral College can also scrutinise the Executive, initiate the impeachment process of the Chief Executive, participate in the disciplinary hearings etc. of Legislative Councillors and members of the Government; they should be given the power to scrutinise individual judges' , including the Chief Justice's behaviour and decisions in court They will have to sit on other public bodies and quangos, e.g. EOC, URC, Hospital Authority, Land and planning advisory boards, etc., on top of scrutiny and initiating disciplinary processes of (members of) these bodies.

We have to review the power of the Judiciary and its relationship with the other institutions. The Electoral College can play a role in this regard. Selection of the senior judges, especially and most importantly the Chief Justice and other Court of Final Appeal judges must involve them.

To do the above and more, different committees can be set up. But there must be no multiple membership, and the selection method must not be elitist as in the current arrangements; but by nomination and voting within the Electoral College.

From time to time, the Electoral College members and committees can make proposals/suggestions to the Government; they can be one of the sources to gauge public opinions; they can serve on various advisory boards. These advisory boards have to be scrutinised too. Also there are excessively too many advisory boards in HKSAR and this has to be cut down extensively.

Such functions can continue beyond 2012. Every 5 years 1/3 to 2/3 membership of the Electoral College should be changed.

(c) Method for Selecting the Chief Executive in 2012 onwards

Some would say Direct Election/Universal Suffrage. But we never like an all-powerful absolute Chief Executive resembling the colonial Governor and the English Monarch, never answerable to the public. We propose he/she should come from the Legislative Council whose members by 2012 will be all directly elected.

The different aspects and institutions of the political structure are not separate unconnected entities. How one functions affect the others, therefore the success of the constitutional reform depends on how the various bodies, like the executive, the legislature and the judiciary interact, that is their functions and power, the hierarchy of each, the power and limits of each level of each body, and checks and balances within each body, by each other, and by the public and maybe by other public bodies (whose power must also be looked into) - all these must be addressed. Without a good arrangement, whatever method used to choose the Chief Executive and the Legislature, these two institutions would still be prone to abusing their powers.

(d) Executive Council

This is an anachronism of the colonial days. It should be scrapped.

That the Executive Council had no well-defined role, and that they were there to "advise" the Governor of Hong Kong, is reflective of the very nature of the power structure in Hong Kong: 1/. Hong Kong was a British colony; 2/. the Governor was the representative of the absolute power of the King/Queen of England. The power of the Hong Kong Governor was therefore absolute in Hong Kong. The so-called executive power was actually the King/Queen's power.

In England, the executive power is Royal Prerogative. The power never comes from the people, but it is the absolute power of the King/Queen of England.

Therefore, to say that Exco can have only advisory role, is tantamount to adhering to British rule.

This violates the "Hong Kong people governing Hong Kong" principle.

(II) The Legislative Council of the Hong Kong Special Administrative Region

(a) Currently, the Legislative Council behaves sometimes as a British House of Lords and sometimes a House of Commons. The Functional Constituency members, by nature of their exclusive constituencies, are like members of the House of Lords. There is considerable cronyism and nepotism. When they vote in the legislature, sometimes their votes are counted separately from the direct members' votes, in such manner they are like the Houses of Lords; sometimes their votes are counted together with the direct members', then the two groups are like one single house.

You cannot make it so ambiguous. If you want an upper house and a lower house, make them separate, and define their powers and their roles in law making etc. clearly. If you want only one house, make it behave as one single house, that is, only one type of votes from the legislators.

Hong Kong is so small that there should only be one house of legislature. Even when there are two houses after 2008, members of both houses should be returned by direct election. Being an SAR in China, Hong Kong need only legislate on local matters, so it is stupid and a waste of taxpayers' money to have two houses of legislature. But the counting of votes within the legislature must not be separate for members elected from these two types of constituencies. The Basic Law has provisions for the necessary mechanism for changing the voting method in the legislature.

The Legislative Council's power must be enlarged, and the Legislative Council itself must also be enlarged for that reason, and for other reasons. To accomplish this, we can increase membership to 80. For 2008 we can have 40 directly elected members and 40 functional constituency members. And from 2012 onwards, all should be returned by direct election. Constituencies can be enlarged or new ones created for electing the extra functional members. We'll talk about this in (b) (iii) on Legco enlargement.

(b) Legco enlargement:

(i) Bill-writing

The Legislature should be given more power in bill-writing. To do this, we need a larger legislature, where members can be grouped together to study the issues - in Standing Committees on different issues, bill-writing subgroups within the standing committees, or a large bill-scrutiny standing committee, with members focusing on different issues, or legislators forming alliance themselves, or cooperating with the relevant executive bureaus on the bill-drafting, there are all sort of ways to do it. When legislators are given the role of writing bills, whether in their names or alongside the executive bureaus, the government should provide support in the form of expert personnel from the departments, or access to government statistics and papers.

(ii) Executive role

Instead of having the Chief Executive selecting Executive Councillors, without him/her and his/her Exco cronies answerable to any of their actions (including Exco members selection), we should have the Legislative Councillors playing a principal role in the executive. In other words, scrap the Executive Council, the so-called Cabinet should be the principal officials, i.e. the Chief Secretary, Secretary for Justice, Finance Secretary and executive bureau chiefs, and give it the name "Cabinet".

There are several ways.

First, the legislators choose from within themselves the cabinet. The Chief Executive should have no role in this role - the approval of the Central Government is needed anyway. This upholds the Hong Kong people governing Hong Kong principle. This cabinet can have the executive authorities assisting them, or we have the heads of the executive bureaus put under them or as their assistants. The three principal secretaries - Chief Secretary, Secretary for Justice, Financial Secretary can be from the Legislative Council. Alternatively, government officials aspiring to these three major posts can run for these posts, or other executive positions.

Some think that certain principal official positions must come from the civil service. In that case, their appointments need ratification of the Legislative Council before finally seeking the approval of the Central Government.

(C) Method for Forming the Legislative Council in 2008

Method of Election

Direct election:-

Another reason that the Legislative Council should be expanded is that we can ensure that while the current system, with only 30 legislators returned by proportional representation, and even if all 60 or 80 members are returned this way, the minorities' views would be drowned by the majority, and also the merits of individual legislators of political parties are not recognised enough. With a larger membership, we can have more people elected by one-person-one-vote. The well-tested method of mixed selection by universal suffrage, where in a constituency, the voters can rank candidates, and excess votes can be re-allocated among the candidates, not yet returned, according to each voter's priority on the candidates. This applies in both 2008 and beyond.

Functional constituencies (FCs):-

A functional constituency can return more than one person to the legislature. The current narrow constituencies should not be allowed to return more candidates. We can create a few bigger and more broadly representative FCs, such as workers in the different industries - transport, service industries, homemakers, etc. Each of these big FCs can return more than one candidate, with the number returned roughly in line with the size of the FC. The FCs should not be there to exclude most

members of the public, but to make sure that a broad representation of people from different backgrounds can get into the legislature. Currently there are far too many lawyers in the Legco. A ceiling should be set on membership from each profession, that including the businessmen and women.

Currently each FC excludes too many lower and middle level workers. This has to be changed. Laborers and office clerks, messengers, etc. should all be included to various FC's. All functional constituents must be persons.

Functional constituencies should be discarded in 2012.

(III) Checks and balances

We have discussed this in (I) (b) Electoral College, (I) (c), (d), and (II) (b) (ii) above.

Also, the Central Policy Unit (CPU) and the Executive Council are not required, not even on paper, to be accountable, and their roles are ill-defined. They are paid by public money, and there is absolutely no public control on who will be selected, what they do, and whether they do anything at all. We don't need cronyism, nepotism and favouritism in HKSAR. Again refer to (I) (b) & (d) and (II) (b) (ii) regarding scrutiny on the Executive Council. And the Executive Council is not needed and has to be scrapped.

The so-called collective responsibility and collective confidentiality is absolutely crap.

(a) The relationship between the Executive and Legislative institutions provides a way to scrutinise the Executive and the Chief Executive. Refer to (II) (b) (ii).

(b) We have to define the power and limit of the Chief Executive, the Cabinet, the principal officials, senior judges and Legislative Councillors.

There must be definite mechanisms in place to impeach and censure these officials. Such mechanism must involve the Hong Kong public, e.g. the Electoral College we discuss in (I) above. These may require the approval of the Central Government and amendments to the Basic Law.

(IV) Conclusion

If we need amendments to the Basic Law to implement the changes discussed above. Then why not. Why can't we?


The Constitutional Development Task Force says that "any proposed amendments must comply with the provision of the Basic Law. Amendments to the design and principle of the political structure prescribed in the Basic Law must not be lightly contemplated". Is it not reasonable that changes

be made "in light of the actual situation of HKSAR"? Changes may actually be necessary, as it's now, "in light of the actual situation in HKSAR". British conspirators were involved in writing the Basic Law, and now the pernicious nature of the current political arrangements has partially revealed itself already. Such actual situation in Hong Kong does call for changes in the SAR's political structure, and if that requires changes in the Basic Law, and it indeed does, then we must do it.

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